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THE CENTRAL ADMINISTRATIVE TRIBUNAL, CIRCUIT BENCH, LUCKNOW

DA No. 456/1991

Anupam Kumar Srivastava ... Applicant

Vs.

Union of India ... Respondents.

Hon'ble Mr. Justice U.C. Srivastava, V.C.

Hon'ble Mr. A.B. Gorthi, A.M.

(By Hon'ble Mr. A.B. Gorthi, A.M.)

The applicant in this case is aggrieved by the failure of the respondents to appoint him as a Clerk at Gwalior in M.P. Zone. His claim is that although he was offered an appointment as a Clerk and he had conveyed his acceptance, the respondents failed to give him the appointment. On the other hand, the respondents ^{proceeded} ~~persuaded~~ to conduct another type-writing test to select fresh candidates. The relief sought by the applicant is that he should be appointed as a Clerk at Gwalior and ~~then~~ ^{be} ~~restraine~~ the respondents to make any appointment on the basis of the result of the second type-writing test.

2. The applicant appeared for the 'Clerks Grade Examination 1988', ^{which was} conducted by the Staff Selection Committee at various centres. Vide letter No. 122 'SSC/CR.' he was informed that his name did not find place in the ^{IC} select list and that on ~~that~~ basis of his performance, his name was kept in the reserve panel. The letter further states that ^{as} ~~there~~ were no vacancies in U.P. Zone

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for which he had opted, his appointment at Gwalior in M.P. Zone was being considered by the Commission. He was accordingly, asked to furnish his willingness for being appointed in M.P. Zone. The applicant sent his willingness but the respondents did not give him any appointment. On the other hand, Staff Selection Committee conducted a second type-writing test for the same Clerks Grade Examination 1988, during May, 1990 for all those candidates who had failed or were absent at the initial type-writing test. The applicant represented to the authorities concerned, but failed to get satisfactory response.

3. The respondents have clarified that the applicant's merit position in the Clerks Grade Examination 1988, was at RLY - 0284. Candidates up to merit position RLY-0148 were only declared successful, the applicant was, however, kept on the reserve list. As there were certain ~~number~~ ^{available} of vacancies ~~evolved~~ in M.P. Zone, those in the reserve list were asked to convey their willingness to be appointed in M.P. Zone. Keeping in view the number of vacancies, candidates up to merit position RLY-0279 & could only be given appointments in M.P. Zone, out of the reserve list. The applicant's merit position being at RLY-0284, he could not be given the appointment although he had expressed his willingness to accept the same. As regards the second type-writing test, the respondents asserted that only those Scheduled Caste candidates belonging to U.P. Zone who failed in the initial test or who were absent there at, were called for the second type-writing test. The respondents thus contended that merely because ~~of~~ the applicant's name was included in the reserve list,

he could not have any claim to be appointed. The reserve list is meant only to ~~meet~~ any unexpected contingency and does not show that the candidate was selected for appointment.

4. On behalf of the applicant it was contended that the averments made ⁱⁿ for the counter affidavit were not correct. According to the applicant, even those who were below him in the merit list were given appointment and that the second type-writing test conducted by the respondents was not meant exclusively for S.C. candidates.

5. ^{have} We heard learned Counsel for both the parties. We are not prepared to accept the bald contentions of the applicants that the contents of the counter affidavit do not reflect the true position. The respondents have categorically affirmed that the applicant could not be given the appointment mainly because his merit position was rather too low. It was further asserted by the respondents that so far as the candidates ^{belong} to the U.P. Zone, the second type-writing test was held ⁱⁿ ~~respect~~ only to those candidates who belong to S.C. community and who either failed at the initial test or were absent there at. A somewhat similar case was decided by the Tribunal in OA No. 411 of 1991, Shri Udai Bhan Shukla Vs. U.O.I. It was held therein that the facts that the candidate's name was put in the reserve panel indicated that he was not in the select list but only in the reserve list and that as regards filling up of the vacancies from ~~in~~ the reserve list, the respondents went strictly in accordance with the merit. The same is the position in the instant case also.

6. In the result, we find that the applicant was, ^{was} without any merit and the same is hereby dismissed. There shall be no order as to costs.

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Member (A)

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Vice-Chairman

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Dated 26 May, 1992.