

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH, BANGALORE

DATED THIS THE 16th DAY OF APRIL 1987

Present : Hon'ble Shri Ch.RAMAKRISHNA RAO MEMBER(J)

Hon'ble Shri L.H.A.REGO MEMBER(A)

APPLICATION No.1473/86(T)

K.Ramachandra,
Section Supervisor(Accounts),
Central Telegraph Office,
Raj Bhavan Road,
Bangalore - 1.

...

APPLICANT

(Shri Vasanth Kumar

...

Advocate)

V.

The General Manager,
Telecommunications,
Karnataka Circle,
Indian Posts & Telegraphs Deptt.
Maruthi Complex,
Bangalore-9.

D.L.Subbarao,
Senior Section Officer,
Central Telegraph Office,
Raj Bhavan Road,
Bangalore - 1.

R.Subramaniam,
Senior Section Officer,
Central Telegraph Office,
Raj Bhavan Road,
Bangalore - 1.

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RESPONDENTS

(Shri D.V.Shylendra Kumar

...

Advocate)

This application has come up before the court today.

Hon'ble Shri Ch.Ramakrishna Rao, Member(J) made the following :

ORDER

This application was initially filed as a Writ
Petition in the High Court of Karnataka and subsequently transferred
to this Tribunal. The facts giving rise to that application lie
in a narrow compass.

2.

The applicant joined service in the Post and Tele-

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graphs Department(P&T, for short) as Task Working Messenger in 1956 and ascended the ladder of promotions to the rung of Section Supervisor(Accounts), in which he was confirmed w.e.f.1.3.1982. The next promotional post to which he was eligible was in the cadre of Higher Selection Grade('HSG') in Traffic Division. The Posts and Telegraphics Department Tele-communications Branch(Selection Grade Posts) Recruitment Rules of 1979('Rules, for short) were published under Notification dated 15.6.1979, according to which 90% of the posts were to be filled from Lower Grade Clerks ('LGCs') with 5 years experience and 10% of the posts from Lower Selection Grade Accountants('LSG Accountants'). The applicant being a Section Supervisor(Accounts) was entitled to be promoted against the 10% quota. The second respondent, who was confirmed w.e.f.1.4.1976, was senior to Sri D.J.Paes, who was confirmed from 1.3.1977 and promoted on 26.12.1984(Annexure-F). The vacancy in which Sri D.J.Paes was promoted, should have been offered to the second respondent by virtue of his being senior to Sri D.J. Paes. Instead, the second respondent though senior and eligible for promotion was overlooked by promoting his junior and was promoted only on 17.1.1985, when one vacancy of the LSG Accounts became available. Had the second respondent been promoted by virtue of his seniority on 26.12.1984, the said Accounts vacancy would have been available to the applicant, as he was the next person in the LSG Accounts cadre immediately after the 2nd respondent. Aggrieved by the denial of promotion to him, the applicant has filed this application.

3. Sri S.Vasanth Kumar, learned counsel for the applicant contends that the Rules have made provision for 10% quota to LSG Accountants as a measure of incentive to them and it does not in any way inhibit the right of his client to be con-

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sidered along with others in the 90% quota on the basis of inter-se seniority. Sri Vasanth Kumar has drawn upon the analogy of reservation for scheduled castes and scheduled tribes ('SC/ST', for short) which enables them to compete with others in the unreserved quota and submits that LSG Accountants should also be permitted to compete with LGCs against the quota reserved for them viz., 90%; otherwise, LSG Accountants would not have adequate opportunities to get promoted to the higher post.

4. Sri D.V.Shailendra Kumar, learned counsel for the respondents maintains 10% quota reserved for LSG Accountants is not by way of incentive but it is in the nature of a quota set apart for them and they cannot claim any right to the quota of 90% reserved for LGCs. According to Sri Shailendra Kumar, there is *not* no scope whatever to bring the ^aanalogy of reservation for SC/ST candidates who stand on a totally different footing.

5. We have considered the rival contentions carefully. We are not impressed by the analogy sought to ^{and be} drawn by Sri Vasanth Kumar with SC/ST candidates. In our view, this is a case of quota simpliciter and its purpose seems to be that there should be 10% representation for LSG accountants, who compared to LGCs are smaller in number. In fact, we are told that a separate seniority list is maintained for both the categories, which confirms the view that the vacancies in the post are filled by rotation, that is, *and* first 9 vacancies are filled by LGCs and the 10th by LSG Accountants. As long as the quota provision exists in the Rules, the question of LSG Accountants competing with LGCs does not arise.

6. We, therefore, hold that the applicant was entitled to be considered only against the 10% quota fixed for LSG Accountants and his grievance that he was not considered against 90%

and

REGISTERED

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH
@@@@@@@@@@@@@@@@

Commercial Complex(BDA),
Indiranagar,
Bangalore - 560 038

Dated : 14/8/87

REVIEW APPLICATION NO 94 / 87 ()
IN APPLICATION NO. 1473/86(T)

W.P. NO _____

Applicant

Shri K. Ramachandra

V/s The GM, Telecommunications, Karnataka
& another

To

1. Shri K. Ramachandra
Section Supervisor (Accounts)
Central Telegraph Office
Raj Bhavan Road
Bangalore - 560 001
2. Shri Vasanth Kumar
Advocate
9/1, R.V. Shetty Layout
Seshadripuram
Bangalore - 560 020

Subject: SENDING COPIES OF ORDER PASSED BY THE BENCH

Please find enclosed herewith the copy of ORDER/~~STAY~~/
~~INTERIM ORDER~~ passed by this Tribunal in the above said Review
application on 22-7-87.

R. V. Venkatesh Reddy
DEPUTY REGISTRAR
~~SECTION OFFICER~~
(JUDICIAL)

Encl : as above

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH, BANGALORE

DATED THIS THE TWENTY SECOND DAY OF JULY 1987

Present : Hon'ble Shri Ch. Ramakrishna Rao ... Member (J)

Hon'ble Shri P. Srinivasan ... Member (A)

REVIEW APPLICATION NO.94/87

K. Ramachandra,
Section Supervisor (Accounts)
Central Telegraph Office,
Raj Bhaven Road,
Bangalore-1.

Applicant

(Shri S.Vasanth Kumar .. Advocate)

V.

The General Manager,
Telecommunications,
Karnataka Circle,
Indian Posts & Telegraphs Department,
Maruthi Complex, Bangalore-9.

D.L. Subba Rao,
Senior Section Officer,
Central Telegraph Office,
Raj Bhaven Road,
Bangalore-1.

Respondents

This Review Application has come up before the Court today.
Hon'ble Shri Ch.Ramakrishna Rao, Member (J) made the following:-

O R D E R

This Review Application (RA) has been filed late by 27 days and the applicant has prayed in IA No.1 (IA) for condonation of the delay. For the reasons stated in the IA, we condone the delay.

2. By this Review Application, the applicant in A No.1473/86 wants us to review the order dated 16.4.1987 rendered in that application. The question that arose for decision in A No.1473/86 was whether the reservation of 10% of posts in the Higher Selection Grade in the Traffic Division of the Telecommunication Branch of the Posts and Telegraph Department for promotion from among Lower Selection Grade (LSG) Accountants amounted to a fixed quota ^{for} LSG



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Accountants which could not be exceeded ^{or whether} over and above the said reservation, ~~or whether~~ they could also aspire for promotion in the the general quota of 90% on the basis of their seniority vis-a-vis Lower Grade Clerks (LGC). This Tribunal held that it was a quota allotted to LSG Accountants and so they could not lay claim for promotion to any posts in the remaining 90% quota which was meant exclusively for LGCs. In the course of the said order, this Tribunal observed in para 5: "In fact, we are told that a separate seniority list is maintained for both the categories, which confirms the view that the vacancies in the post are filled by rotation, that is, first 9 vacancies are filled by LGCs and the 10th by LSG Accountants".

3. Shri S.Vasant Kumar, learned counsel for the applicant, submits that it was not a proven fact that separate seniority lists were maintained for LGCs and for LSG Accountants and that enquiries by his client had revealed that a separate seniority list for LSG Accountants was brought out only in 1985 i.e., after A No.1473/86 had been filed as a writ petition before the High Court. Thus there had been a factual error in the order of this Tribunal dated 16.4.1987 and this had materially affected the decision, and called for a review of the said order.

4. Having carefully heard the contentions of Shri Vasant Kumar, we feel that this is not a fit case for review since the Tribunal interpreted the rules to mean that the reservation of posts to LGCs (90%) and LSG Accountants (10%) was by way of quota and not by way of incentive to the latter as suggested by the applicant. Once it was regarded as a case of quota, LSG Accountants could not claim any of the remaining 90% posts falling in the quota of LGCs. The reference to separate seniority lists for the two categories made in the order was, as mentioned in the order itself, to confirm the view already taken. Even if such separate lists were not being maintained, the order of this Tribunal would still have been

the same viz. that the reservation of posts for LSG Accountants was by way of quota and, therefore, the application deserved to be dismissed. We cannot sit in judgment over the interpretation of the rules in the said order dated 16.4.1987 as if we were a court of appeal.



5. In the result this application is rejected in limine.

Sd/-

MEMBER (J)

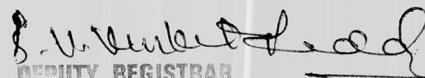
Sd/-

MEMBER (A)

22/8/87

- True copy -

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DEPUTY REGISTRAR
CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH
BANGALORE
14/8/87