

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

BOMBAY BENCH
CAMP AT NAGPUR

(6)

O.A. NO: 119/90

199

T.A. NO:

DATE OF DECISION 9.3.1992

Manohar B. Gunjarkar

Petitioner

Mr. S.K. Sanyal

Advocate for the Petitioners

Versus

xxx Post Master General, Bhopal

Respondent

Mr. Ramesh Darda

Advocate for the Respondent(s)

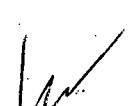
CORAM:

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

The Hon'ble Mr. M.Y. Priolkar, M (A)

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgement ?
4. Whether it needs to be circulated to other Benches of the Tribunal ?

mbm*


(U.C. Srivastava)
V/C

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH, BOMBAY
CAMP AT NAGPUR

* * * *

Original Application No.119/90

Manohar B.Gunjarkar ... Applicant

v/s

Postmaster General, M.P.Circle,
Bhopal & 3 Ors. ... Respondents

CORAM : Hon'ble Vice-Chairman, Shri Justice U.C.Srivastava
Hon'ble Member (A), Shri M.Y.Friolkar

Appearances:

Mr. S.K.Sanyal, Advocate
for the applicant and
Mr. Ramesh Darda, Counsel
for the respondents.

ORAL JUDGMENT:

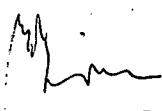
Dated : 9.3.1992

(Per. U.C.Srivastava, Vice-Chairman)

The applicant who was working at a regular post as Packer in the Department of Return Letter Officer, Nagpur since the year 1983 also appeared for the promotional post of Postal Assistant/Sorting Assistant but promotion was not given to him and that is why he has approached this Tribunal. According to the applicant in the advertisement there was no such condition that the post which is meant for General category can go also to the member of the Scheduled Caste candidate and yet the post which was meant for the General candidate has been given to a Scheduled Caste candidate. The applicant is stated to have secured 67.5% marks but he was not given appointment. One ~~seat~~ was given to the member of Scheduled Caste community who is said to have secured the highest marks. As per the averments made by the respondents the other post which was meant for the members of the Scheduled Tribe has not been filled-in. The applicant has come forward although the quota for SC/ST was overfilled and those who were not even qualified to be appointed were appointed yet the applicant was not given appointment

(S)

although as the general candidate he has secured the member of highest marks. If the post was reserved for Scheduled Tribe, the same could have been carried forward and further there was no question of reservation as the quota was over-filled. The applicant has given the list of 9 members of Scheduled Caste and 7 members of Scheduled Tribe who according to the applicant are holding the said post as desired by the applicant. According to the applicant, as per the strength in the office, there should be only three or four vacancies but there are excess employees, 9 from SC and 11 from ST category. It cannot be disputed that if a member of SC tops the list he can be given the appointment against the post which is meant for general category as the reservation is out of the general. Of course the member of the general community cannot get the post which is reserved for the SC but the member of the SC who continues to be a member of general candidate notwithstanding the reservation gets that post. This is precisely what has happened in this case. But in view of the assertions made by the applicant that the obviously the second post could have been given to the applicant in view of the fact that no member of ST was available and the post could have been carried forward taking into consideration the fact that the quota was over-filled. Accordingly the respondents are directed to consider the case of the applicant for appointment against ~~the~~ one post in case the averments made by the applicant are correct and the quota for SC/ST is full and the post could have been kept forward for next years. Let a decision in this behalf be taken within three years from the date of communication of this order. No order as to costs.


M.Y. Priolkar

(M.Y. Priolkar)
Member(A)


U.C. Srivastava

(U.C. Srivastava)
Vice-Chairman