

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH MUMBAI

ORIGINAL APPLICATION NO:949/97

DATE OF DECISION:12.10.2001

Shri Anand Ramchandra Sonawane Applicant.

Shri S.P. Kulkarni Advocate for
Applicant.

Verses

Union of India and others Respondents.

Shri S.S.Karkera for Shri P.M.Pradhan Advocate for
Respondents

CORAM

Hon'ble Shri S.L.Jain, Member(J)

Hon'ble Shri V.K. Majotra, Member(A)

(1) To be referred to the Reporter or not? *yes*

(2) Whether it needs to be circulated to *no*
other Benches of the Tribunal?

(3) Library. *yes*

S.L.Jain
(S.L.Jain)
Member(J)

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CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI.

ORIGINAL APPLICATION NO:949.97

FRIDAY the 12th day of OCTOBER 2001

CORAM: Hon'ble Shri S.L.Jain, Member(J)

Hon'ble Shri V.K. Majotra, Member(A)

Anand Ramchandra Sonawane
C/o Narayan Shetty,
Jagruti Chawl No.1 R.No.1
Kaju Tekdi, Ghatkopar
(West), Mumbai.

Applicant.

By Advocate Shri S.P. Kulkarni.

V/s

1. Union of India through
Chief Postmaster General
Maharashtra Circle,
Old CGO Building, Near CST
Central Railway, Fort, Mumbai.

2. Director
Departmental Examinations
Office of the Director General
(Posts), Department of Posts,
Ministry of Communications,
Dak Bhavan, Parliament Street,
New Delhi.

3. Director General (Posts)
Department of Posts
Ministry of Communications
Dak Bhavan, Parliament Street,
New Delhi.

Respondents

By Advocate Shri S.S. Karkera for Shri P.M.Pradhan.

ORDER (ORAL)

{Per S.L.Jain, Member(J)}

This is an application under Section 19 of the Administrative Tribunals Act. 1985 seeking the relief mentioned at para 8 of the OA, which is as under:

(a) This Hon'ble Tribunal be pleased to call for records of the subject case including Special Roster maintained by Respondent No.1 for better appreciation of the issues.

P.911

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b) Hold and declare the act of adjusting One Schedule Caste vacancy by showing Shri Jaiswal (Merit Candidate) in the result of 1995 as illegal and violative of Set Principle of law.

c) Quash and set aside the Special Roster enter of Shri Jaiswal as promoted against SC Point (1995), direct Respondent to Review the result and consider the applicant against schedule caste vacancy.

d) Direct Respondents to consider and re-review the Review- Pprocess which declare R-4 as passed by correctly assessing the SC vacancies as 2 instead of One.

e) In view of the (d) above direct respondents to re-tabulate the marks after adding grace marks to applicant and Respondent No.4 and arrange seniority (Merit) accordingly.

f) In view of the 8(b) and (c) above direct Respondents to rectify and re-cast Special Roster admitting 2 SC candidates instead One and resultantly consider the case of applicant against the said vacancy.

g) Any other and such further order / relief as may be deemed fit and proper by this Hon'ble Tribunal.

h) Cost of Rs. 3000/- if awarded be paid to the applicant.

2. The applicant having completed five years of service followed by confirmation and being eligible in all respects was admitted and allowed to compete in the Departmental Competitive Examination for promotion to the cadre of Inspector of Post Offices (Rs. 1400 - 2300) held in August, 1995. The vacancies were for the year 1995 - Other class 14, Schedule Caste 2 and Schedule Tribes 2. The result was announced of the aforesaid Examination on 6.3.1996. Thereafter the respondents took up a review of results of Scheduled Caste candidates as per guidelines and norms declared.

3. The claim of the applicant is resisted by the respondents. The respondents filed the selection paper. On

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perusal of the result declared by the respondents, name of Shri K.M. Shere [redacted] a Scheduled Caste candidate found place at serial No.4 (page 16 and 17). The applicant claims that Shri K.S. Jaiswal was selected on merit. The perusal of the result declared by the respondents we find that Shri Jaiswal secured 37, 37, 33, 73.5 and 39 in paper I, II, III, IV and V respectively being total 219.5.

4. In view of the circular No 7/5/67-SPB II issued by the Director General Post offices, the minimum qualifying marks is that 40% in each paper and 45 aggregate. Now we have to examine whether Shri Jaiswal can be considered or was considered as general candidate. We find that Shri Jaiswal does not secure 45% aggregate and also does not secure 40% mark in paper I, II, III, and V. Thus he cannot be considered as a candidate selected on the basis of merit.

5. The relaxed standard in view of circular issued by Indian Posts and Telegraphs Department, Office of the Director General of Posts and Telegraphs, New Delhi No. 63/10/71-SPB-I dated 17.7.1971 which is as under:

In other words, if 35% is the qualifying standard in each paper and 40% the qualifying standard in aggregate marks for other communities it should be 33% in each paper and 38% in the aggregate marks for the Scheduled Caste and Scheduled Tribe candidates.

Perusal of the same makes it clear that Shri Jaiswal was considered in view of the relaxed standard prescribed by the said circular dated 17.7.1971.

P. J.

6. Thus one vacancy for Scheduled Cast candidate in view of the relaxed standard was filled.

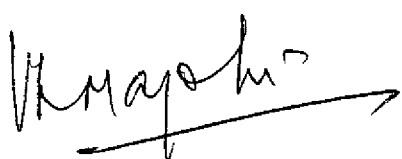
7. Now remains two candidates, one is the applicant, Shri A.R. Sonawane and another is Shri K.M. Share. Both candidates have secured the marks mentioned against each once name.

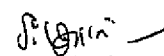
Marks secured By	Paper I	II	III	IV	V	Total
1. Shri A.R. Sonawane (SC)	45	53	32	47	36	213
2. Shri K.M. Share	32	52	35	46	49	214

8. On perusal of the same we find that Shri K.M. Share secured total marks of 214 and the applicant secured only 213 marks. Shri K.M. Share also secured the marks in each paper as per the relaxed standard in view of circular dated 17.7.1971. In such circumstances the applicant has no chance to be considered even on the basis of relaxed standard.

9. The learned counsel for the applicant argued that if a Scheduled Caste candidate is selected on the basis of relaxed standard, he gets the position as a regular selectee on the basis of the judgement of R.K. Sabarwal and others. We are not inclined to accept the said proposition of law as such a proposition is not laid down in the case of R.K. Sabharwal and Ors. V/s Union of India and others reported in 1995 (1) SC SLJ 330.

10. In the result we do not find any merit in the OA. The OA is liable to be dismissed and is dismissed accordingly.


(V.K. Majotra)
Member(A)


(S.L. Jain)
Member(J)

