

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH,

J A I P U R .

T.A. No. 1907/86  
(CS 214/81)

Date of Decision : 26.8.92

PHOOL SINGH

: Applicant

Mr. A.M. Bhandawat

: Counsel for the Applicant.

VERSUS

UNION OF INDIA & ORS

: Respondents

Mr. Manish Bhandari

: Counsel for the Respondents.

CORAM:

Hon'ble Mr. Justice D.L. Mehta, Vice-Chairman

Hon'ble Mr. B.B. Mahajan, Administrative Member.

HON'BLE MR. JUSTICE D.L. MEHTA, VICE-CHAIRMAN

Applicant/Plaintiff filed a suit in the Court of Munsif and Judicial Magistrate, Gangapur City for the declaration and temporary injunction under 40 point roster.

2. The case of the applicant is that he and Amar Singh were invited to appear in the trade-test. The respondents have come with a case that under 40 point roster, only one ST candidate was eligible for the reserved seat and he was wrongly invited as another official from S.T. who is senior to him had also been invited and consequently, his name was cancelled and the person of the general quota was allowed to appear in the trade-test in his place.

3. Mr. Bhandawat appearing on behalf of the applicant submits that 40 point roster is not applicable but 100 point roster is applicable as it is a case in which the minimum basic salary is less than Rs. 425/- per month. Mr. Bhandawat was confronted with the amended plaint filed in the Tribunal on 14.7.88 and it was shown to him that in the relief clause he has made a request that a declaration be issued that 40 point roster is applicable. Mr. Bhandawat submits that it was a mistake in the plaint which might have crept in because of negligence of law of the person who has drafted the plaint. Such relief cannot be granted unless prayed for, particularly, in the instant case, when relief

prayed for is that it may be declared that 40 point roster system is applicable.

4. Mr. Bhandawat submits that his pleadings are there that there is a mistake. We have also gone through the pleadings that he says that points 1 + 8 falls within the provision of reservation seats for STs. Such pleadings cannot be considered particularly when there are no details to show how vacancies at these points fall within roster for STs particularly when we are dealing with the case for which the prayer is about 40 point roster. Any fact mentioned which is contrary or inconsistent with the relief sought cannot be considered while granting the relief. We do not find any force as far as this relief is concerned.

5. The second grievance of the applicant is about the trade-test held in the year 1985. Applicant appeared in the trade-test but he failed. He has alleged that the authorities, particularly, Mr. T.N. Kapoor, Divisional Mechanical Engineer were not happy with him and there are allegations against them. None of them is a party in this application and allegation of mala fide cannot be considered and there remains nothing after that. As such, no relief can also be given to him against this grievance as he has failed in the trade-test. Again, the applicant appeared in the trade-test of the year 1986. He was declared successful and he was appointed as Grade-II Highly Skilled Welder. The trade-test was also of the Grade-II. He cannot be appointed as Grade-I Highly Skilled Welder on the basis of this test.

6. We thus do not find any force in this application and the same is dismissed accordingly.

No order as to costs.

  
( B.B. MAHAJAN )  
Administrative Member

  
( D.L. MEHTA )  
Vice-Chairman