

(8)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH,

J A I P U R.

O.A. 5/91

Date of decision: 5-10-94

MADAN GOPAL

: Applicant.

VERSUS

UNION OF INDIA & ORS : Respondents.

Mr. J.K. Kaushik : Counsel for the applicant.

Mr. Manish Bhandari : Counsel for the respondents.

CORAM:

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

Hon'ble Mr. N.K. Verma, Administrative Member

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

Heard the learned counsel for the parties.

2. Applications were invited on 3.1.90 (Annexure A-6) for holding a written test for selection for the post of Assistant Accounts Officers Class II against 75% quota on 3.2.90. The panel was to consist of 49 persons out of which 4 posts were reserved for SC and 3 posts were reserved for ST candidates. Vide Annexure A-1, dated 29.6.90, the panel was declared and instead of 49 persons, 48 persons were placed in the panel. The applicant's contention is that, according to the notification, 49 persons should have been placed in the panel. After six months, again applications were invited and it was notified that there will be a panel of 38 persons. Applicant has challenged the Annexure A-1/A, the notification dated 10-12-90 and has also prayed for enlargement of the panel dated 29.6.90.

3. We will like to mention some facts here also that the practice of filing additional information is <sup>not</sup> according to law and such information can be over-looked under the law. In the instant case, Mr. Kaushik has pointed out that without amending the petition he submitted some additional information to the Tribunal as per directions of the Court. May it be, then it should have been filed that additional information by way of amending the application and not by way of making an application. The copy of the so-called

9

additional information is not supplied to the respondents as the copy of the O.A. is sent and not of the additional documents/information sent to the respondents. Apart from that, there is one important factor which we would like to discuss is that in the so-called additional information the applicant has given a statement that the existing vacancies were only 12 which were filled on adhoc basis. He has also mentioned the anticipated vacancies as 21 and he has taken into consideration all the anticipated vacancies, retirement vacancies which were to take place between 1-1-90 to 31-12-90. Thereafter, he has also mentioned about the upgradation vacancies, vacancies of Railway Claims Tribunal, deputation vacancies and 30% cadre vacancies. It will not be out of place here to mention that nowhere it has been mentioned that when the upgradation vacancies took place or the upgradation and scheme had come into force, /the same about the Railway Claims Tribunal and deputation vacancies etc. These vacancies cannot be looked into for the purpose of anticipated vacancies and in fact the vacancies were 33 (12 + 21) as shown by the applicant in his application by way of additional information. Thus the vacancies come to 33 and the panel of 48 persons cannot be said to be bad in law.

4. It will not be out of place here to mention that the respondents have come out with a case in para 14 of their reply that the assessment of the vacancies for two years including 30% of anticipated vacancies were made and they were correctly made and in fact, the figure of 49 arrived at was the correct figure. It was for the applicant to give the details about it.

5. The respondents have also come out with a case in para 6 of the reply that in accordance with the norms referred to above, "the applicant is required to secure 30 marks separately for professional ability, apart from

10

overall marks. This was not the only basis of selection."

In para 8, it has also been mentioned that "the applicant did not secure the requisite marks for the eligibility, the question of selection does not at all arise." Mr.

Kaushik has referred the judgment of the Gujarat High Court in Special Civil Application no. 3104/80 in the case of I.K. Shopti Vs. Union of India, marked as Annexure A-10.

This judgment does not apply in the facts and circumstances of the case. During the intervening period, number of appointments have been made and regular process of selection has taken place. We are not inclined to interfere and to direct that the panel should be enlarged.

6. In the facts and circumstances of the case, we do not find force in the application and the same is rejected, with no order as to costs.



( N.K. VERMA )  
Administrative Member



( D.L. MEHTA )  
Vice-Chairman