

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH AT
HYDERABAD

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ORIGINAL APPLICATION NO.129 of 1987

DATE OF ORDER: 27-10-1989

R.RAMESH BABU

.... Applicant

Vs.

Regional Director, M.R. Office,
Hyderabad and another Respondents

For Applicant

.... B.Tharakam

For Respondents

.... G.Parameswara Rao

CORAM:

Hon'ble Shri D.Surya Rao, Member (Judl.)

Hon'ble Ms. Usha Savara, Member (Admn.)

JUDGMENT OF THE BENCH DELIVERED BY HON'BLE SHRI D.SURYA RAO,
MEMBER (JUDL.)

The applicant herein is a Peon working in the office of the 2nd respondent. He states that a written test was held by the first respondent for appointment to the post of LDC by direct recruitment. The applicant qualified in the test and was informed accordingly by a memo. dated 14.12.1983 by the 1st respondent. He was told that the merit list remains current for one year with effect from the date of issue of the offer to the 1st candidate from the list. It is, however, alleged that the first respondent prepared two lists, one for

open competition and the second for Scheduled castes and Scheduled Tribes. The applicant's name appears in the 2nd list i.e., ^{among} to those ~~xxxxxxxxxxxxxx~~ qualified against the posts reserved for SC/ST. It is stated that the 1st candidate in the open competition list was given appointment on 25.7.1983 while the first candidate in the SC/ST list was made on 31.1.1984. Thus, the OC list was liable to be expired by July 1984 while the SC/ST list was liable to be expired by January 1985. Insofar as the SC list is concerned, it is contended that the applicant's name is at Sl.No.7, that the candidates at Sl.No.1 and 2 joined on 31.1.1984 and August 1984, candidate No.3 did not join while the candidates 4 and 5 joined in December 1984 and January 1985 respectively. It is stated that the candidate No.6 was not willing to join. Hence, the applicant was ~~next~~ ^{due} to get his chance but he was denied appointment on the ground that the list ~~had~~ expired by the date on which the applicant was to be promoted. It is further stated that though the list of OC candidates expires by July 1984, the same was extended by six months for the benefit of OC candidates. Consequently, three OC candidates got appointed during this extended period of six months. Same benefit of extension of the list was not made available to the applicant. It is stated that one of the three OC candidates was given appointment even after the expiry of the extended period. If the extension ~~was~~ given to the OC candidate's list is given to the SC candidate's list also, the applicant would have been given the appointment and posting. It is further alleged that when the applicant made representations to the ^{Ministry} Commissioner for SC/STs, he was informed that in the year 1984, out of 8 posts, 4 from SC/ST list were appointed and in the year 1985 one SC candidate was appointed. He contends that in the year 1984 ^{only} 3 SC candidates were appointed. Thus, incorrect information was furnished by the respondents. Two

Contentions are, therefore, raised viz., that if instead of ~~he would have been appointed~~ three SCs, four were appointed in 1984 and if the list was extended by six more months, the applicant would have been eligible for appointment.

2. On behalf of the respondents, a counter is filed denying the claims of the applicant to selection applying the rule of reservation. It is stated that initially when a selection was held for direct recruitment to the post of LDC on 13-3-83, 52 candidates were qualified and put in the merit list. Not a single SC/ST candidate was qualified. Recruitment to vacancies from this list was accordingly ~~begun~~ before and the first candidate was offered appointment on 7-7-83. This list was thus, valid for one year upto 6-7-84. The list was extended erroneously for six months more. In so far as the SC/ST candidates were concerned, a second special recruitment test was held and ~~18~~ ^{persons who} qualified and were put in a merit list published on 7-12-83. The first candidate in this list was offered appointment on 22-1-84 and hence the validity of this list was due to expire on 23-1-85. The applicant ranked 7 in the list and hence did not come into the zone of consideration ~~even~~ ^{even by} 23-1-85. It is denied that candidates were offered appointment from the general list after expiry of the validity period. In regard to informing the Commission for SC/STs, that ~~4~~ candidates from S/C were appointed in 1984, it is stated that this was a mistake and in fact only 3 S/C candidates were appointed. However, this has not affected the applicant or deprived him his right to appointment. It is denied that candidate No.6 in the S.C. list who is above the applicant had been offered appointment and refused. It is contended that the applicant can have no grievance as his turn did not come up before expiry of the panel.

Sri L.L. Manohar Advocate for

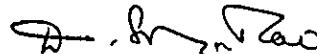
3. Heard the learned counsel for the applicant, Sri B. Tharakam and Sri G. Parameshwara Rao, counsel for the Respondents. The first contention raised is that the S.C. list should have been extended as in the case of the O.C. list and not doing so is discriminatory and violative of Article 14 of the Constitution. There is no doubt that the Director General, E.S.I.C. can extend a panel by six months beyond the period of one year. However, can it be said that because one panel has been extended it is incumbent to extend all panels by six months. In the instant case, when the first selection was held in March 1983 not a single S.C. qualified. If they had qualified with ^{OCs} and S.Cs. would have got the benefit of the extension of the panel. Since no SCs qualified, a special recruitment test was held which could be operated only six months after the earlier panel comprising exclusively of OCS could be operated. By extending the panel of OCS, it was possible to have the two panels ending almost co-terminously.

Hence it cannot be said that ^{non-} extension of the S.C. panel by a further six months period is arbitrary or discriminatory. In any event, the applicant cannot compare himself with candidates in the earlier panel as he never qualified in that panel. We, therefore, see no merit in the contention that non-extension of the S.C. panel is violative of Article 14.

4. The next question is whether any injustice or prejudice has been caused to any SC candidate in the instant case. The facts as contained in the application, the counter and the record produced disclose that in the year 1983, ten persons were appointed. All were O/C candidates. Till December 1983, seven ^{had} been appointed and during December, three more were appointed. Till December 1983, it was impossible for the Department to fill up any S/C vacancy

as the panel of SC candidates became available only by 7-12-83. Even thereafter, it took some time to operate the panel and as such even in December, the three vacancies which arose were offered only to O.C. candidates. If the rule of reservation had operated in the year 1983, only two candidates could have been appointed as the rule provides only for 15 per cent reservation to S/Cs. We find that this shortfall in 1983 was made good in the year 1984 by appointing three S/C candidates by direct recruitment. In the year 1984, in all seven persons were appointed by direct recruitment. Of these seven, if the rule of reservation was strictly applied, only one S/C candidate could have been appointed as 15 per cent of 7 vacancies would come to only one vacancy. However, while applying the carry-forward rule and limiting the total number of reserved vacancies to less than ~~25~~⁵⁰ per cent, the Department appointed three persons out of seven. Thus, the two vacancies which should have gone, in the year 1983, to S/Cs, were made good in the year 1984. Thereafter, in the year 1985, one more S/C and one more O/C were appointed in January. Some might have reported later. The extended period of the panel for O/C candidates and the panel for S/C candidates has thus expired, and it was not possible, therefore, to accommodate any more candidate from either of these panels. It was, thus, to be seen that between June 1983 and January 1985, in all 14 O/C candidates and 4 S/C candidates had been appointed from among the two panels. The normal requirement ~~for~~^{of} reservation for S/Cs under the rules is 15 per cent of the total of 18 vacancies which comes to 2.7 or 3 at the most. However, by extending the carry forward vacancies in the year 1984 it was possible to appoint one more S/C. Thus, no real prejudice has been caused to the S/C candidates. In any

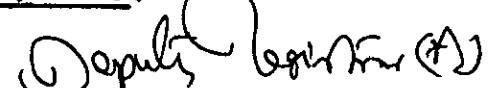
event, even if one more vacancy had arisen, we ~~do~~ ^{could} not see how the claimant can consider himself aggrieved. As already stated supra, he ranks No.7 in the S/C panel. Appointments were offered to the first five in the panel ~~and~~ of whom one refused. Thus, four S/Cs were appointed. The question of offering the same to the applicant could not have arisen as even if the ^{any} vacancy was available it could have been offered to serial No.6 in the S/C panel. We, therefore, find that no prejudice or injustice has been caused in the matter of recruitment to S/C candidates or to the applicant in particular. The application is devoid of merits and is accordingly dismissed. In the circumstances, there will be no order as to costs.



(D. SURYA RAO)
MEMBER (J)


(USHA SAVARA)
MEMBER (A)

Dated: 27th October, 1989.



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To

1. Regional Director,
M.R. Office, Employees State Insurance
Corporation, 5-9-23, Hill Fort Road, Hyderabad-500 463.
2. Dy. Regional Director,
M.R. Office, Employees State Insurance
Corporation, 5-9-23, Hill Fort Road, Hyderabad-500 463.
3. One copy to Mr. B. Tharakam,
Advocate, H.No.1-10-24, Ashok Nagar, Hyderabad.
4. One copy to Mr. P. Rama Krishna Raju, Sr. CGSC, CAT, Hyderabad.
5. One spare copy.

ghm/