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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD.

O.A. No. 1184/91.

Date of Judgement 3 [8] July 1992

P. Seshadri

.. Applicant

Vs.

1. Govt. of India,
Rep. by its
Secy., to Govt.,
Min. of Water Resources,
Shrama Shakti Bhavan,
New Delhi.

2. The Chairman,
Central Water Commission,
Seva Bhavan, R.K.Puram,
New Delhi.

.. Respondents

Counsel for the Applicant : Shri N.Rama Mohan Rao

Counsel for the Respondents : Shri N.V.Ramana, Addl. CGSC

CORAM:

Hon'ble Shri R.Balasubramanian : Member(A)

Hon'ble Shri C.J.Roy : Member(J)

1 Judgement as per Hon'ble Shri R.Balasubramanian, Member(A)]

This application has been filed by Shri P.Seshadri under section 19 of the Administrative Tribunals Act, 1985 against the Govt. of India, Rep. by its Secy., to Govt., Min. of Water Resources, Shrama Shakti Bhavan, New Delhi & another, praying for a declaration that the action of the Respondents No.1 and 2 in not promoting the applicant to the post of Dy. Director/Executive Engineer alongwith other candidates by an order dt. 28.2.90 as arbitrary and illegal. The O.A. further seeks a direction to the respondents to declare the applicant as having been promoted as a Dy. Director/Executive Engineer w.e.f. 28.2.90 with all consequential benefits.

2. The applicant was appointed as Asst. Director/Asst. Executive Engineer, Central Water Engineering (Group-A). While so, he fulfilled all conditions for consideration for promotion to the next higher grade of Dy. Director/Executive Engineer. His name was considered and being

the lone candidate belonging to the S.T. community his name was included in the panel at serial 25 alongwith other O.C. candidates. However, by the order dt. 28.2.90 only 22 persons have been promoted and the respondents have not promoted him because his turn according to the approved panel has not come. It is his case that when 22 persons are promoted there should be ^{points} at least one belonging to the S.T. community in accordance with the roster. Being the only empanelled S.T. candidate, he wants his promotion irrespective of his placement in the approved panel. He knocked ^{at} several doors for relief and having failed he has filed this O.A.

3. The respondents have filed a counter affidavit and oppose the application. The respondents anticipated 78 vacancies and the D.P.C. had a sitting on 8.8.90 and 27.8.90. Among the 78 vacancies 18 are reserved - 12 for S.C. and 6 for S.T. Only one officer belonging to the S.T. community was eligible and that was the applicant. The respondents acted in accordance with the directions contained in the O.M.No.27/2/71-E(SET) dt. 27.11.72 issued by the Dept. of Personnel. They prepared ~~two~~ separate lists for O.C., S.C. and S.T. and the three separate select lists were merged into one combined list in which the names of all the selected officers as well as those belonging to S.C./S.T. ^{were} ~~are~~ arranged in the order of interse seniority in the feeder cadre viz: Asst. Director/Asst. Executive Engineer. It is stated that the applicant's name figures at serial 26. The number of vacancies as anticipated did not come through and they could promote only 22 officers and the first 22 in the panel were promoted. It is their case that the applicant could be promoted only according to his placement in the approved panel.

4. We have examined the case and heard the rival sides. The simple point that has to be decided is whether irrespective of his placement in the approved panel the applicant should be promoted because there is at least one point of reservation for S.T. community among the 22 promotions. According to the

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40 point roster there should be at least one S.T. point in 22 ^{promotions} ~~points~~ and it is, therefore, the contention of the applicant that being the lone candidate belonging to the S.T. community in the panel he should be promoted even though he had been placed at serial 26 in the panel. Against this, the respondents rely on the instructions contained in the memo dt. 27.11.72 of the Dept. of Personnel referred to. The November, 1972 memo is on the subject of reservations for SCs/STs to posts filled by promotions on the basis of seniority subject to fitness. The promotion from the cadre of Asst. Director/Asst. Executive Engineer to the cadre of Dy. Director/Executive Engineer is on the basis of seniority subject to fitness and the instructions contained in the November, 1972 memo will apply to this case. Prior to the issue of this memo there was no reservation for S.C. and S.T. in promotions made on the basis of seniority subject to fitness. When it was decided that there should be reservation of 15% for SCs and 7½% for STs in promotions made on the basis of seniority subject to fitness in all appointments made including Class I posts in grades of service in which the element of direct recruitment, if any, does not exceed 50%, the Government came up with the instructions contained in the memo dt. 27.11.72. According to para 3(ii) of the memo, wherever according to the points in the roster there are any vacancies reserved for SCs and STs, separate lists should be drawn up of the eligible SC or ST officers, as the case may be, arranged in order of their interse seniority in the main list. The respondents stated that they have done this. Again, according to para 3(iv), when the select lists of officers in the general category and those belonging to SCs and STs have been prepared by the Departmental Promotion Committee, these should be merged into a combined select list in which the names of all the selected officers, general as well as those belonging to SCs and STs, are arranged in the order of their interse seniority in the original

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Copy to:-

1. Secretary to Govt. Ministry of Water Resources, Govt. of India, Shrama Shakti Bhavan, New Delhi.
2. The Chairman, Central Water Commission, Seva Bhavan, R.K.Puram, New Delhi.
3. One copy to Sri. N.Rama Mohan Rao, advocate, 714 'B' Block, Brundavan Apartments, Red Hills, Hyd.
4. One copy to Sri. N.V.Ramana, Addl. CGSC, CAT, Hyd.
5. One copy to Hon'ble Mr. C.J.Roy, Judicial Member, CAT, Hyd.
6. One copy to Deputy Registrar(Judl.), CAT, Hyd.
7. Copy to Reporters as per standard list of CAT, Hyd.
8. One spare copy.

Rsm/-

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January
2000

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seniority list or the category or grade from which the promotion is being made. This combined select list should thereafter be followed for making promotions in vacancies as and when they arise during the year (emphasis supplied). This is also in conformity with what is stated in the Dept. of Personnel O.M. No.10/52/73-Estt(SCT) dt. 24.5.74 although in a different context. It is stated therein that the rosters which have been prescribed for reservation are for determining the number of vacancies to be reserved for SCs and STs. and that the roster is not for determining the order of actual appointment or for the purpose of determining seniority. It is precisely this that the respondents had done. It is thus possible that where a candidate belonging to SC/ST finds a place in the approved panel by virtue of ~~selection~~ reservation (not by virtue of his seniority in the feeder cadre), he may not still make it to the promotion list because of the placement in the panel.

5. Placed as he is at serial 26, the applicant has to await his turn for promotion. We, therefore, do not see any illegality in the action of the respondents who have followed the instructions of the Dept. of Personnel on this subject and we, therefore, dismiss the application with no order as to costs.

R.B

R. Balasubramanian
(R. Balasubramanian)
Member(A).

C. J. Roy
(C. J. Roy)
Member(J).

Dated: 31/82
July, 1992.

8/8/92
Deputy Registrar (Jd.)

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