

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

O.A.No.163/94

Date of order: 30/6/2000

Lala Ram Saini, S/o Ram Sahai, R/o Near Police Station, Behind Petrol Pump, Sanganer, Jaipur, working as Group-D in the office of Dy. Director of Postal Accounts, Jaipur.

...Applicant.

Vs.

1. Union of India through the Secretary to the Govt, Deptt. of Posts, Mini.of Communication, New Delhi.
2. Director General, Deptt. of Posts, New Delhi - 1.
3. Chief Postmaster General, Rajasthan Circle, Jaipur.
4. Deputy Director of Accounts (Postal) Tilak Nagar, Jaipur.

...Respondents.

Mr.K.L.Thawani - Counsel for applicant

Mr.U.D.Sharma - Counsel for respondents.

CORAM:

Hon'ble Mr.S.K.Agarwal, Judicial Member

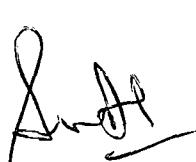
Hon'ble Mr.N.P.Nawani, Administrative Member

PER HON'BLE MR.S.K.AGARWAL, JUDICIAL MEMBER.

In this Original Application under Sec.19 of the Administrative Tribunals Act, 1985, the applicant makes a prayer to quash and set aside the order dated 8.11.93 and to direct the respondents to appoint the applicant on the post of LDC on the basis of departmental examination of the year 1991.

2. Brief facts of the case as stated by the applicant are that he was initially appointed as Group D employee on 23.6.83 in the office of Dy.Director Accounts (Postal), Jaipur and passed the departmental examination for promotion in July 1991 but he was not given appointment on the post of LDC whereas person who have passed departmental examination in 1992-93 were given appointment vide order dated 31.12.93. It is stated that the applicant made representation thereafter respondent No.4 informed the applicant that the request for appointment of the applicant on the post of LDC was not acceeded to by the Chief Post Master General, Rajasthan Circle, Jaipur. It is stated that the applicant filed representation on 12.12.93 but no reply. It is further stated that the applicant passed the departmental examination in July 1991, therefore, he was entitled to appointment on the post of LDC earlier than those who have passed departmental examination in the year 1992-93. Therefore, the applicant file the O.A for the relief as mentioned above.

3. Reply was filed. In the reply it has been stated that departmental examination for promotion of Group-D/Sorters to the



post of LDC is only a qualifying examination and is not related to the existence of the vacancies in the Cadre of LDCs during the year in which such qualifying examination is held and the person who qualify in such examinations are given appointment by promotion to the post of LDC as and when vacancies occur in respect of the category of Sorter or Group-D employees as per the roster point fixed for such categories and also as per the roster points provided for making reservation for SC and ST candidates. It is further stated that the post of LDCs out of the various categories as aforesaid are required to be filled up by operating the 20 point roster as prescribed vide the Department's letter dated 8.3.89 and on its perusal it appears that 5% of the vacancies in the Cadre of LDCs have been earmarked for Group-D employees and the said vacancies being categorised as 'D' come at roster point No.6 in the 20 point roster. Thus only the sixth vacancy as per the said roster will be filled from the Group 'D' employees qualifying in the said departmental examination. It is further stated that the filling of vacancies out of the Group-D employees as per the aforesaid 20 point roster is also subject to the 40 point roster provided for filling up the vacancies from SC/ST candidates as prescribed vide letter dated 22.4.70 issued by Ministry of Home Affairs. It is further stated that the applicant qualified in the departmental examination held in 1991, the vacancy available in that year was required to be filled up from an SC candidate as per the aforesaid roster point and as such, the applicant could not be appointed against that available vacancy in the year 1991. It is also stated that no SC candidate was available for filling the said vacancy in 1991, the same remained unfilled for three years. It is also stated that even in the year 1992, the applicant could not be appointed against the said vacancy as the same had been allotted to the category 'E' as per Annexure-II of Anxx.R/2. It is also stated that the aforesaid single vacancy could not be filled up in the year 92 as no Matriculate Sorter and Group-D employee belonging to the category 'E' was available. Therefore, the said vacancy was carried forward to the year 1992-93 and even in the year 1993, the applicant could not be given promotion to the post of LDC against the available vacancy meant for qualified Group-C employees. It is denied in the reply that the applicant was discriminated in the matter of appointment on the post of LDC as per details given in the reply. At the end it was stated that the applicant has no case for interference by this Tribunal, therefore, the O.A is liable to be dismissed.

4. Heard the learned counsel for the parties and also perused



the whole record.

5. On the perusal of the pleadings of the parties, it appears that the applicant had qualified the departmental examination held in the year 1991. The vacancy available in that year was required to be filled up from SC candidates as per roster point as no SC candidate was available for filling up the said vacancy in the year 1991. Even in the year 1992, the applicant could not be appointed against the said vacancy as the same was allotted to the category 'E' and the vacancy could not be filled up as no Matriculate Sorter and Group-D employee belonging to category E was available. Therefore, the vacancy was carried forward for the year 1993 but even in the year 1993, the applicant could not be given promotion as it was required to be filled up from SC candidate.

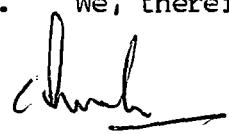
6. The learned counsel for the applicant has argued that reservation against single post is not permissible, therefore the vacancy should have been filled up by general candidate if SC/ST candidate is not available. He has referred Brochure on reservation of SC & ST candidates in support of his contention. On the other hand, the learned counsel for the respondents contended that this is applicable only in single post cadre.

7. In Post Graduate Institute of Medical Education & Research, Chandigarh Vs. Faculty Association & Ors, JT 1998(3) SC 223, the Constitution Bench of the Apex Court held that

"In a single post cadre, reservation at any point of time on account of rotation or roster is bound to bring about a situation where such single post in the cadre will be kept reserved exclusively for the member of the backward classes and in total exclusion of the general members of the public. Such total exclusion of general members of the public and cent percent reservation for the background classes is not permitted within the constitutional frame work."

8. In view of the settled legal position and the reasons given as above and the facts and circumstances of this case, we are of the considered opinion that the applicant has no case for interference by this Tribunal.

9. We, therefore, dismiss the O.A with no order as to costs.

  
(N.P. Nawani)

Member (A).

  
(S.K. Agarwal)  
Member (J).