

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,  
JAIPUR BENCH, JAIPUR.

Date of Order: 7.5.2015

**ORIGINAL APPLICATION No. 291/00131/2015**

CORAM :

**HON'BLE MR.JUSTICE HARUN-UL-RASHID, JUDICIAL MEMBER  
HON'BLE MR. R.RAMANUJAM, ADMINISTRATIVE MEMBER**

Bodu Ram Meena S/o Shri Rampal Meena, by caste Meena, aged about 42 years, resident of G-31, Tripti Nagar, Jaipur, presently working as SSA, Regional Office, Nidhi Bhawan, Jyoti Nagar, Jaipur.

... Applicant

(By Advocate : Mr. Kapil Gupta)

Versus

1. Union of India through Principal Secretary, Ministry of Labour & Employment, New Delhi.
2. The Central Provident Fund Commissioner, Employees' Provident Fund Organisation, Bhavishya Nidhi Bhawan, 14, Bhikaji Kama Place, New Delhi-110066.
3. The Regional Provident Fund Commissioner, Regional Office, Nidhi Bhawan, Jyoti Nagar, Jaipur; and
4. Shiv Narayan Jat, presently working as SSA through Regional Provident Fund Commissioner, Regional Office, Nidhi Bhawan, Jyoti Nagar, Jaipur.

... Respondents

**ORDER**

(Per Hon'ble Mr. R.Ramanujam, Administrative Member)

The applicant has filed this OA challenging the order dated 5.12.2014 (Ann.A/1) of the Employees' Provident Funds Organisation whereby his representation for appointment to the post of Enforcement Officer/Accounts Officer (EO/AO) meant for ST category through a departmental competitive

examination held during 8-12 Oct., 2012 has been rejected by the competent authority.

2. The applicant submits that he is working as a Social Security Assistant (SSA) in the Regional Office of Respondent No.3. The respondent No.3 issued a notification on 12.7.2012 for the Departmental Promotion Examination for appointment to the said post. While initially only 3 posts were advertised, however, on 27.1.2014 the number of vacancies were raised from 3 to 10. As per the official result of the examination declared on 28.1.2014, 7 persons of the unreserved category and 3 persons of SC category were selected for promotion to the said post. The applicant claims that out of 10 vacancies, one must be filled by a person belonging to the ST category as per the 100 point roster. The applicant belongs to the ST category and is the rightful claimant to this post, although he had applied as a general candidate. He could not apply as a reserved candidate as no reservation was available for ST on any of the 3 vacancies initially advertised.

3. The applicant alleges that he obtained information under the RTI Act regarding the number of vacancies and came to know that 6 persons were promoted on the post of EO/AO from 4.3.1990 to 1.7.1997 and 14 persons were promoted from 2.7.1997 to 27.2.2014. The applicant's claims to be appointed against the vacancy which should be reserved for ST having been rejected, he has sought direction from the Tribunal to the respondents to allocate one post to ST category and to grant him the promotion on the post of EO/AO with all consequential benefits.

4. We have heard the Ld. Counsel for applicant at length. The Ld. Counsel for the applicant argued that as per the information provided under the RTI Act, there were 23 vacancies under the examination quota from 1991 to 2008-2009. 7 more vacancies occurred since then till 2013-14. Thus total vacancies from 1990 to 2013-14 work out to 30. As per the 200 points reservation roster, the 28<sup>th</sup> vacancy point belonged to an ST candidate. By not considering the applicant for the said appointment the right of the

applicant has seriously been infringed. He also argued that the respondent have failed to maintain the running roster and there was no record of the roster from 4.3.1990 to 1.7.1997. He alleged that the theory of replacement would be applicable only when roster points had been exhausted. The respondents may not be allowed to adopt this policy even before exhausting roster points.

5. We have examined the matter carefully in the light of documents annexed to the OA. The impugned order at Annexure A/1 appears to be a speaking order in as much as it clearly deals with the issues raised by the applicant. The fact that the applicant appeared for limited departmental competitive examination for promotion to the post of EO/AO on 8-12 Oct., 2012 and that he belongs to the ST-category are not disputed. However, the impugned order clearly states that revised vacancies were notified before the declaration of result of the said examination on 27.1.2014. No representation was submitted by the applicant at this stage raising dispute over the number of vacancies so notified. The applicant appeared in the aforesaid examination against the general category vacancies as there was no vacancy for the ST category. The applicant did not come within the merit list of first 10 candidates. As per the post-based roster of Regional Office, Jaipur the sanctioned strength of EO/AO under the examination quota up to the year 2012-13 was 25. Against this sanctioned strength, 15 persons were already in position. Thus the result of the said examination would be applicable for remaining 10 vacancies. As per the model post based roster, out of 25 posts only 1 post comes under the ST category and the same has already been filled by promotion of a ST candidate namely Shri Ramdhan Meena who had remained successful in an earlier examination held in December, 2009. Therefore, there was no post available under the ST category up to the year 2012-13.

6. It is clear from the facts as given in the impugned order that the respondents are operating a post-based reservation roster as against the claim of the applicant which is vacancy based. He has not been able to produce any *prima facie* evidence in support of his allegation that the

respondents did not maintain a running roster and were not filling up ST vacancies in the past. The applicant has failed to point out how the post-based reservation roster is not in accordance with the relevant rules/orders/policy of the Central Government and/or the interpretation thereof made by a competent court of law. The OA appears to be based on presumptions drawn from some information gathered under the RTI rather than any concrete evidence and is, therefore, misconceived. In view of this, we see no reason to consider the matter further much less interfere with the impugned order of the respondents. We accordingly dismiss the OA with no order as to costs.

  
(R.RAMANUJAM)  
MEMBER (A)

  
(JUSTICE HARUN-UL-RASHID)  
MEMBER (J)

Adm/