

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

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Date of Decision: 08.4.2002

OA 519/97

D.P.Mathur, Section Supervisor, RPFC, Jaipur.

... Applicant

Versus

1. Union of India through Central Provident Fund Commissioner, 14, Hudco Vishala, Bhikaji Kama Place, New Delhi.
2. Regional Provident Fund Commissioner, Nidhi Bhawan, Near Jyoti Nagar, Jaipur.

... Respondents

CORAM:

HON'BLE MR.A.P.NAGRATH, ADM.MEMBER

HON'BLE MR.J.K.KAUSHIK, JUDL.MEMBER

For the Applicant ... Mr.Anupam Agarwal, brief holder for Mr.Manish Bhandari  
For the Respondents ... Mr.N.K.Jain

O R D E R

PER HON'BLE MR.A.P.NAGRATH, ADM.MEMBER

A departmental examination for promotion to the post of EO/AAO/SUPDT. was initiated vide notification dated 6.9.96 for five posts to be filled up by this process, out of which one post was reserved for SC and one post of ST. The applicant had also appeared in the examination. Quota for promotion of vacancies in this category is 50% by promotion, 25% by departmental examination and 25% by



direct recruitment. The notification dated 6.9.96 was in respect of 25% quota pertaining to departmental examination. Claim of the applicant is that he secured third position in the departmental examination and was thus entitled to be appointed against the general quota vacancy.

Since only two general quota vacancies have been filled up, the applicant has filed this OA seeking directions to the respondents to declare result of the applicant against the third vacancy meant for general candidate or against any other vacancy notified; and to promote him with all consequential benefits.

2. The fact, that as per the original notification three vacancies were made for the general candidates, has not been denied by the respondents in their reply. However, it has been submitted that there was a review of the vacancies in the Regional Office in consultation with the Liaison Officer. As a result of this review, a change in vacancy position was reported to the Central Office. As per this revised position, out of five vacancies only two came to be the share of general candidates, one for SC and two for ST. Because of this reason, only result of two general candidates was declared. The position in respect of third vacancy was again reviewed and it was found that the Liaison Officer had committed an error while making recommendation about the reserved post and that the earlier vacancy position, as notified in the letter dated 6.9.96, was, in fact, correct.

3. During the arguments, this position was again stated before us by the learned counsel for the respondents very

fairly. As per the directions given on the last occasion, Shri P.K. Agarwal, Regional Provident Fund Commissioner (Exam.) appeared personally to assist us to decide this controversy.

4. On hearing arguments on either side, we have not been able to comprehend as to why the respondents are reluctant to fill up the third vacancy. We have also perused the result of this examination and we find that applicant's name in fact finds a place at position No.3. In this result in which all the candidates who have secured qualifying marks belong to the general category only. Contention of the department is that third vacancy will be notified again and shall be filled up by the process of examination. We do not find any justification in this stand of the department. The departmental examination is part of the process of filling up of the posts in this category. 50% of the vacancies are filled up by promotion, 25% by direct recruitment and 25% by departmental examination. It has been admitted before us that promotee quota posts have been filled up already. Since all the three modes of filling up the vacancies are a part of one continuing process, there can be no reason for the department not to fill up the third vacancy when the departmental quota vacancies worked out to five in this particular case. No convincing reason was given to us by the department as to why they want to initiate fresh departmental examination for this one vacancy. The applicant has qualified and stands at position No.3. If

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'there is nothing adverse against him otherwise, we find no reason for not promoting him.

5. We, therefore, allow this OA and direct the respondents to consider the case of the applicant for promotion against general vacancy notified by letter dated 6.9.96, in which he has admittedly been successful, if there is nothing coming in the way of his promotion otherwise. The applicant shall also be entitled to all consequential benefits arising out of this order. The respondents shall comply with this order within one month from the date of communication of this order. No costs.

J.K. Kaushik

(J.K. KAUSHIK)

MEMBER (J)

A.P. Nagrath

(A.P. NAGRATH)

MEMBER (A)