

**CENTRAL ADMINISTRATIVE TRIBUNAL,
CHANDIGARH BENCH,
CHANDIGARH.**

O.A.No.060/00754/2014

Date of Decision: 04.11.2015

**CORAM: HON'BLE MR. JUSTICE L.N. MITTAL, JUDICIAL MEMBER
HON'BLE MRS. RAJWANT SANDHU, ADMINISTRATIVE MEMBER**

Vinod Kumar son of Sh. Dharam Singh age 39 years working as Data Entry Operator, Grade B, in the Office of Regional Provident Fund Commissioner, Regional Office, S.C.O. 4-7, Sector 17-D, Chandigarh.

Applicant

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Versus

1. Union of India through the Secretary, Ministry of Labour & Employment, Shram Shakti Bhawan, New Delhi.
2. The Central Provident Fund Commissioner, Headquarter, Employees Provident Fund Organization, Head Office, 14 Bhikaji Cama Place, New Delhi.
3. The Regional Provident Fund Commissioner, Regional Office, S.C.O.4-7, Sector 17-D, Chandigarh

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Respondents

Present: Sh. P.M. Kansal, proxy for Sh. D.R. Sharma, counsel for the applicant.
Sh. D.S. Nalwa, counsel for respondents no.2 and 3.

ORDER

HON'BLE MR. JUSTICE L.N. MITTAL, MEMBER (J)

1. ~~But~~ Vinod Kumar, applicant has filed this O.A. to assail letter dated 07.07.2014 (Annexure A-5), whereby vacancy position for filling up post of Enforcement Officer/Accounts Officer (EO/AO) by Departmental Competitive Examination Scheme in Examination Quota (E.Q.) was declared before declaring the result of the said examination held from 08th to 12th October, 2012. The applicant has also sought his consequential appointment against one vacant post of EO/AO belonging to Scheduled Caste category (to which the applicant belongs) in E.Q. Other consequential reliefs have also been claimed.

2. There is no dispute that aforesaid examination was held for filling vacancies in the post of EO/AO in E.Q. While notifying examination

vide letter dated 12.07.2012 (Annexure A-7), the vacancy position for Punjab Region was declared to be as 01 vacancy for General candidates and 02 vacancies for Scheduled Tribe candidates and Zero vacancies for SC candidates. However, according to the Scheme, the variation in the vacancy position had to be notified before declaration of the result. Accordingly, vide letter dated 03.12.2013, Assistant Provident Fund Commissioner, sent position of variation in vacancies. Thereupon, the impugned letter dated 07.07.2014 (Annexure A-5) was issued notifying vacancies as 03 for General candidates, Zero for SC candidates and 02 for ST candidates whereas, 02 additional vacancies in General Quota were withheld till further decision.

3. We have heard learned counsel for the parties and perused case file with their assistance.

4. Proxy counsel for the applicant by referring to letter dated 03.12.2013 (Annexure A-6) contended that Sh. Kashmir Singh, AO, was regularized as APFC w.e.f. 13.11.2012 and he was from EQ and belonged to Scheduled Caste but consequent vacancy has been given to Seniority Quota (S.Q.). Accordingly proxy counsel for applicant contended that said vacancy should be given to the applicant, who is at sr. no.1 in the merit list of the examination in question ^{in S.C. category.} It was also pointed out that there was one vacancy of S.C. category in E.Q. as on 31.12.2008, 31.03.2009 and 31.03.2010 and therefore, the applicant is entitled to the said vacancy.

5. On the other hand, counsel for the respondents pointed out that vacancies are allocated according to the roster and it is not essential that a post vacated by S.Q. would necessarily go to S.Q. or vice-versa. It was also pointed out by referring to Annexure A-6 that vacancy created ^{retirement of} by Sh. Ashok Kumar S.Q. went to E.Q. In the same manner, it was


pointed out that vacancy created by Kashmir Singh E.Q. went to S.Q. In this context, it was also pointed out that the allocation of vacancies^{up} to 31.03.2013 in Annexure A-6 (at the top of page 31 of the paper book) depicts that there were already 03 excess SC candidates in E.Q. and therefore, the vacancy created on regularization of Sh. Kashmir Singh could not be given to S.C.ⁱⁿE.Q and the applicant could not be appointed against the said vacancy.

6. We have carefully considered the matter. Vacancy position as given in Annexure A-6 clearly reveals that S.C. candidates were already in excess in E.Q. They were in excess by 03 posts as per vacancy position as on 31.03.2013. Even according to vacancy position at page 34 of the paper book, as on 31.03.2012, there were 03 SC candidates in excess but as on 31.03.2013, there were 02 SC candidates in excess. It appears that the vacancy created on regularization of Kashmir Singh was accounted for resulting in reduction of the^{excess} SC candidates from 03 to 02. Thus, contention of counsel for respondents has to be accepted and it is apparent that there was no SC vacancy in E.Q. for promoting the applicant in the said quota.

7. Faced with aforesaid situation, proxy counsel for applicant contended that representation dated 21.07.2014 (Annexure A-2) was under active consideration of the respondents as per their written statement and they may be directed to dispose of the same. However, in view of the judicial adjudication of the matter by us, nothing survives for determination on representation, by the respondents. On the other hand, if the applicant wanted adjudication of the matter by deciding his representation, he should have made this limited prayer in the O.A. or he should have awaited for adjudication of the said representation before filing O.A. However, he filed O.A. on 29.08.2014 just a little over one

month after making representation and did not wait for reasonable period for decision on his representation. In any case, ^{the} ~~pea~~ raised in representation as also raised in the O.A. has now been adjudicated by us.

8. For the reasons aforesaid, we find no infirmity regarding SC vacancy in EQ. ^{"dismissed no"} Consequentially; the instant O.A. is ~~disposed of~~ ^{disposed of} with order as to costs.


(JUSTICE L.N.MITTAL)
JUDICIAL MEMBER


(RAJWANT SANDHU)
ADMINISTRATIVE MEMBER

Place: Chandigarh
Dated: 04.11.2015.

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