

Central Administrative Tribunal Principal Bench, New Delhi

R.A.No.220/2014
O.A.No.4196/2012

Thursday, this the 24th day of September, 2015

Hon'ble Mr. A.K. Bhardwaj, Member (J)

Tej Pal (Aged about 45 years)
s/o Mr. Rohtas Singh
r/o H.No.467, Jatav Mohalla
Village & Post Tughlaqabad
New Delhi-44

..Applicant

(Ms. Anu Mehta and Mr. Rubinder Ghumman, Advocates)

Versus

1. Union of India through Secretary
Ministry of Culture
Sastri Bhawan, New Delhi
2. Director General
Archaeological Survey of India
Janpath Lane, New Delhi
3. Deputy Superintending Archaeologist
ASI, Safdarjung Tomb, Delhi Circle
New Delhi

..Respondents

(Mr. Hanu Bhasker, Advocate)

O R D E R (ORAL)

R.A.No.220/2014

O.A.No.4196/2012 was disposed of in terms of Order dated 9.5.2014 with a view that the candidates from reserved category only upto Serial No.125 were called for interview and the last individual selected was at Serial No.114.

Paragraphs 3 & 4 read thus:-

“3. In the counter reply filed on behalf of respondents, it is explained that the position of applicant in seniority list is at serial no. 131 and after regularization of the candidates upto serial no. 82, only 26 candidates i.e. upto serial no. 108 were called for interview. According to them the candidates from reserved category only upto serial no. 125 were called for interview and the last roster point given to a selected candidate is 114. Mr. Amit Anand, learned counsel for respondents reiterated the stand taken by the respondents and submitted that the applicant would be considered for

his regularization as per his seniority position and reservation roster, subject to availability of vacancies in future.

4. In the circumstances, OA is disposed of with direction to respondents to act in terms of the stand taken in para 4.5 of the reply, i.e. the applicant will be called for interview as and when his turn comes as per their seniority list. No Cost.”

2. Ms. Anu Mehta, learned counsel for applicant submitted that in terms of office memorandum No.16/2/2006-Admn (DC) (Annexure A-4) to the Original Application, the CLTS upto Serial No.145 were directed to submit their certificates for relaxation as per Rules. In the additional affidavit filed on behalf of the applicant, it has been averred that when the applicant was denied regularization, those who were at Serial Nos. 132, 134, 140, 142, 144, 146 and 147 of the list of casual of labourers with temporary status, have been regularized. According to her, once the said facts were not taken note of by the Court while disposing of the Original Application, an error could take place in the Order under review.

3. According to Mr. Hanu Bhasker, learned counsel for respondents, the applicant belongs to reserved category and no candidate below him in the list could be considered for regularization. Further submission put forth by him is that by now there is no Group ‘D’ post and all the posts in Group ‘D’ has been classified as Group ‘C’ and the selection to the post is made through Staff Selection Commission.

4. Re-joining the submission, learned counsel for applicant relied upon the judgment of Hon’ble Supreme Court in **R.K. Sabharwal & others v. State of Punjab & others**, (1995) 2 SCC 745 and submitted that once the UR category candidates who were below the applicant in the list of CLTS were considered for regularization, the applicant cannot be nixed such benefit on the pretext that he belongs to SC category. According to her, the benefit of

reservation is given to the candidates from reserved category for their advancement and not to put them to disadvantageous position to the extent that they are denied such benefits, which are given to UR category candidates below them in the list of CLTS.

5. I heard the learned counsels for the parties and perused the record.

6. Apparently in the Order under review the Office Memorandum, relied upon by the applicant, was not noticed and further the fact that the UR category candidates were below the applicant in the list of CLTS was also not taken note of by the Tribunal.

7. In the circumstances, the Order is reviewed and the Original Application No.4196/2012 is restored to its original position.

O.A. No.4196/2012

Original Application is disposed of with direction to the respondents to verify whether the individuals whose names are mentioned in paragraph 6 of the additional affidavit dated 7.7.2015 are considered for regularization or not. If the outcome of the verification is positive, the applicant should also be considered for such regularization in accordance with the procedure in vogue as on the date when such individuals were considered for their regularization. This exercise shall be completed within a period of four weeks from the date of receipt of a copy of this Order. No costs.

(A.K. Bhardwaj)
Member (J)

September 24, 2015
/sunil/