

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH: HYDERABAD**

Original Application No.506/2013

Date of Order: 18.04.2019

Between:

D. Narsimlu, S/o. Sri D. Balaiah,
Aged about 35 years,
Occ: Fitter/ T. No. 2204-9,
SMS Section, Ordnance Factory,
Medak-502 205,
R/o. Kyasaram Village,
Patancheru mandal,
Medak District, PIN – 502 305.

... Applicant

And

1. Union of India, Rep. by its
Director General and Chairman,
Ordnance Factories Board,
Government of India,
Ministry of Defence,
10-A, S.K. Bose Road,
Kolkata – 700 001.
2. The General Manager,
Ordnance Factory,
Ministry of Defence,
Yeddumailaram Post,
Medak Dist – 502 205.

... Respondents

Counsel for the Applicant ... Mr. K. Ram Murthy

Counsel for the Respondents ... Mrs. K. Rajitha, Sr. CGSC

CORAM:

Hon'ble Mr. Justice L Narasimha Reddy, Chairman
Hon'ble Mr. B.V. Sudhakar, Member (Admn.)

ORAL ORDER
{As per Hon'ble Mr. Justice L Narasimha Reddy, Chairman}

The applicant was working as Examiner in the Ordnance Factory, Yeddumailaram, 2nd respondent herein by the year 2011. A notification dated 09.08.2011 was issued by the 2nd respondent proposing to hold Limited Departmental Competitive Examination (“LDCE” in short) for promotion to the next higher posts of different categories. For the post of Chargeman/T/Mech., 2 posts were reserved in favour of SC candidates and 9 posts were left un-reserved. The applicant, who belongs to SC category, participated in the test and secured 109 marks. Since certain other candidates belonging to that category secured more marks, he was not selected. Another notification was issued on 21.06.2013 for the LDCE. This time, 7 vacancies were notified for the post of Chargeman/T/Mech, out of which, 4 were reserved for SC category and 2 for ST. It is stated that one of the posts which was omitted in the year 2011, earmarked for SC, was carried forward to the year 2013. The applicant participated in the selection, but was not selected.

2. This OA is filed with a prayer to declare the order dt. 09.08.2011, in so far as it did not provide for reservation in favour of third candidate belonging to SC category as illegal, arbitrary, unconstitutional and to direct the respondents to consider his case for appointment as Chargeman/T/Mech based on the merit in the LDCE 2011 on par with other candidates appointed on 18.07.2012, with all consequential benefits. Reliance is also placed on the order passed by this Tribunal in OA No. 57/2013.

3. The respondents filed a counter opposing the OA. It is stated that in the course of working out the roster for LDCE in the year 2011, an omission took place with regard to reservation of one post of Chargeman/T/Mech for SC and the same was carried forward and included in the selections for the year 2013. They contend that the applicant participated in the LDCE 2013, but was not successful and he cannot claim relief vis-à-vis the notification issued in the year 2011.

4. We heard K. Rama Murthy, learned counsel for the applicant and Mrs. K. Rajitha, learned Sr. CGSC for the respondents.

5. The respondents provided for reservation in LDCE also. In the notification dated 09.08.2011, two posts were reserved in favour of SC and 9 posts were unreserved. The applicant contends that instead of reserving 3 vacancies in favour of SC, the respondents reserved only two and but for that omission or mistake, he would have been selected and appointed. As of now, the facts and figures are not clear on this aspect.

6. The respondents did admit that three posts ought to have been reserved in favour of SC in 2011 for the posts in question and when this was noticed at a later date, one post was carried forward and made part of the selection process in the year 2013. A notification in this behalf was also issued on 21.06.2013.

7. Had the applicant approached this Tribunal immediately after selections, referable to the notification dt. 09.08.2011, things would have been different altogether. He participated in the subsequent selection, consequent upon the

notification dt. 21.06.2013 and appeared in the written examination also. It is only when he was not successful in the selection process, he has chosen to file this OA. The principle of acquiescence and delay come into play.

8. It is true that in OA 57/2013, the Tribunal granted some relief in favour of ST candidate. It was not a case wherein he participated in the subsequent selections. At any rate, the order in the said OA has been stayed by the Hon'ble High Court in WP No. 17264/2013.

9. For the foregoing reasons, the OA is dismissed. There shall be no order as to costs.

(B.V. SUDHAKAR)
MEMBER (ADMN.)

(JUSTICE L. NARASIMHA REDDY)
CHAIRMAN

(Dictated in open court)
Dated, the 18th day of April, 2019

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