

**CENTRAL ADMINISTRATIVE TRIBUNAL  
CHENNAI BENCH**

**O.A.No.1248/2012**

**Dated Friday, the 30<sup>th</sup> day of November, 2018**

**PRESENT**

**Hon'ble Mr.R.Ramanujam, Administrative Member**

**&**

**Hon'ble Mr.P.Madhavan, Judicial Member**

C.Radjagourou Ambethcar,  
S/o Cabila Gourou, No.55,  
Gundusalai, Natesan Nagar,  
Pondicherry.

**...Applicant**

By Advocate M/s V.Ajayakumar

**Vs.**

1.Union of India, rep., by  
the Government of Pondicherry  
through the Secretary to Govt.,  
for Fire Service Department,  
Puducherry.

2.Divisional Fire Officer,  
Fire Service Department,  
Puducherry.

**...Respondents**

By Advocate Mr.R.Syed Mustafa

**(Order: Pronounced by Hon'ble Mr.R.Ramanujam, Member(A))**

Heard. The applicant has filed this OA under Section 19 of the Administrative Tribunals Act, 1985 seeking the following relief:

“To call for the records of the respondents in respect of the corrigendum with No.1591/DFO/F1/2011 dated 23.08.2011 issued by the second respondent for the post of Fireman Driver and to quash the same so far it reduced the notified vacancies in the SC quota and consequently to direct the respondents to appoint the applicant to the post of Fireman Driver in the SC category and to pass such other or further orders in the interest of justice and thus render justice.”

2. The grievance of the applicant is that the respondents had issued a notification on 01.11.2007 for filling up 12 posts of Fireman Driver Grade III out of which 6 posts were kept for General(UR), 2 for MBC, 2 for OBC and 2 for SC. The applicant belongs to the SC category. The applicant applied for the post in pursuance of the notification. However, the selection process got delayed till 2011-2012. In the mean time, the respondents issued a corrigendum dated 23.08.2011 altering the reservation for various categories by which the quota for General(UR) was raised to 7 and MBC to 4 while the quota for SC was reduced to 1. The written examination for selection was conducted on 28.10.2012 and the selection was made but the applicant was not selected. It is alleged that the applicant would have been selected but for the change in reservation roster on a date subsequent to the issue of notification which it is alleged is bad in law.

3. Learned counsel for the applicant would argue that since the notification was issued in 2007 and a policy decision was taken in 2011 only to grant 2% reservation for economically backward class and backward class muslims in Group C posts, such decision could not be applied retrospectively to a notification issued in 2007. It is alleged that the applicant stood third in the order of merit in the category of SC candidates and the second rank holder had found a job elsewhere. Therefore, the applicant had a right to be appointed against the second reserved vacancy.

4. Learned counsel for the respondents would, however, argue that the applicant had not acquired any right on the strength of the notification in 2007 as the recruitment commenced only after the policy decision of the Government to extend 2% to the economically backward class and backward class muslims in Group C post by a memorandum dated 28.01.2011. As no rights had accrued to the applicant till the date of such notification, the selection process that commenced thereafter was bound to follow the policy of the Government under which the quota for SC was reduced to 1 in terms of the amended roster. It is evident that the applicant was not the topper among the SC candidates. It is submitted that the selected candidate had secured 39 marks whereas the applicant had secured only 29 marks, far below the marks secured by the selected candidate.

5. We have considered the pleadings as also the submissions made by the rival counsels. It is not in dispute that the respondents had notified two vacancies of Fireman Driver Grade III in 2007 in the SC category and amended it as 1 vacancy out of 12 by a corrigendum dated 23.08.2011. A perusal of the corrigendum shows that the availability of vacancies for General(UR) has increased to 7 and no vacancies have been allocated to OBC. It is not understood how the post based roster for SC would undergo a change consequent on a policy decision to provide for a 2% reservation to economically backward and backward class muslims. Any inclusion of a new category such as economically backward class or backward class muslims would only cut into either General (UR) category or the vacancies reserved for OBC and as such the reservation roster for SC could not undergo a change as a consequence thereof. It might, therefore, only be a matter of academic interest whether the corrigendum issued in 2011 would have retrospective effect or not.

6. It appears from the proceedings of the recruitment committee dated 28.12.2012 that for the post of Fireman Driver Grade III, two persons, one M.Kuttiandi and another P.Ravi had secured 39 marks. Out of these two, the name of M.Kuttiandi was included in the select list based on his date of birth. As such, even if the reservation roster had not undergone a change, it is P.Ravi who would have been appointed against the second vacancy and not the applicant.

7. At this stage, learned counsel for the applicant would submit that the respondents may be directed to take a relook at the post based reservation roster for SC with a view to ascertaining whether the reduction in quota for the SC was justified in terms of the corrigendum. He would allege that the second candidate in the SC category had not been interested in taking up the job as he is already employed elsewhere and as such it is possible for the respondents to consider the applicant's name against the second vacancy in the event of the reservation roster being restored to the 2007 situation.

8. As we are not satisfied that a mere inclusion of an additional category of persons under reservation would affect the reservation available to SC/ST and it is not explained how it would disturb the posts available for SC/ST, we deem it appropriate to direct the respondents to consider the matter afresh and pass a reasoned and speaking order in the light of the observations contained in this order. In the event of the respondents arriving at a conclusion that the post for SC ought not to have been reduced as a consequence of reservation for additional categories, it is for the competent authority to consider the request of the applicant to be appointed against the second vacancy after due notice to the said P.Ravi. This would also be subject to there being no other

candidate between the said P.Ravi and the applicant in the order of merit in the SC category.

9. The OA is disposed of with the above observations. No costs.

**(P.MADHAVAN)**  
**MEMBER(J)**

**(R.RAMANUJAM)**  
**MEMBER (A)**

**M.T.**

**30.11.2018**