
(2013) 01 DEL CK 0261

In the Delhi High Court

Case No : Writ Petition (C) 4269 of 2001

K.C. Meena and Others

APPELLANT

Vs

Union of India and Others

RESPONDENT

Date of Decision : 15-01-2013

Acts Referred:

Citation : (2013) 01 DEL CK 0261

Hon'ble Judges : Veena Birbal, J;Pradeep Nandrajog, J

Bench : Division Bench

Advocate : M.P. Raju with Ms. Mary Scaria, for the Appellant;

Final Decision : Dismissed

Judgement

Pradeep Nandrajog, J.—The issue is short and we have heard learned counsel for the writ petitioners. Raghubir Singh, Prem Eswar, Nand Lal, M.R.S. Shital, Mahboob Singh and Veer Singh filed O.A. No. 948/1998 before the Central Administrative Tribunal challenging the roster in the cadre of Income Tax Officers issued on June 9, 1997 followed by promotion orders dated October 31, 1997, December 31, 1997, February 02, 1998, February 09, 1998, March 25, 1998 and March 31, 1998 pertaining to M.L. Wasan, Jitender Chand, Shiv Dayal, M.L. Meena and Hira Singh Nagi.

2. Pithily stated, the applicants before the Tribunal were members of Scheduled Castes and had become eligible for promotion to the post of Income Tax Officer Group "B". As per the applicable Recruitment Rules of the year 1964, promotion was on basis of selection from those who had rendered three years regular service in the cadre and had passed a departmental examination.

3. The grievance was that the roster circulated on June 9, 1997 had indicated that the entire quota for Scheduled Castes candidates had been utilised and there was a short fall in the General Category candidates and Scheduled Tribes candidates. It was pointed out by the applicants that there were two fundamental errors in preparing the roster. The first was to allocate the SC roster

point to SC candidates who had joined service on their own merit, meaning thereby said candidates had to be treated as in the General Category, and if this was done, the roster would reveal that not all SC posts were filled up. The second grievance was that in the past, there being no ST candidates available, roster point post for ST candidates had been released in favour of the SC candidates and in this manner the roster points pertaining to ST candidates got consumed. Meaning thereby that roster point for ST candidate which was filled up from amongst eligible SC candidates had to be treated as filling up against the ST roster point vacancy and to treat the said roster point vacancy still being available to a ST candidate and as a consequence treat SC candidates to be in excess was wrong.

4. The two submissions had merited acceptance by the Tribunal resulting in a direction issued to take corrective action.

5. Learned counsel for the writ petitioners would concede that whereas the first direction issued by the Tribunal to take corrective action is correct inasmuch as in the past SC candidates who were recruited or promoted by way of selection on merits after clearing a departmental exam could not be treated as occupying post allowable to SC candidates. However, counsel urges that where in the past due to non-availability of the ST candidates the roster vacancies were released to be filled up from amongst SC candidates, the Tribunal ought not to have directed that the roster of the vacancies have to be treated as filled up.

6. We do not agree.

7. If a roster point vacancy cannot be filled up from a member of group or the caste when the roster vacancy accrued and was surrendered, the vacancy gets filled up and for future roster point operation it cannot be urged that the roster point vacancy be treated as available.

8. The Tribunal has referred to Swamy's Compilation on Reservation and Concessions, Fifth Edition, 1996 which deals with subject of "Exchange of Reservations between SC and ST". Thus, we find no merit in the writ petition and thus we dismiss the writ petition but refrain from imposing any costs.