



2024:DHC:7557



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

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Date of Decision: 11th September, 2024

+ W.P.(C) 2992/2019

DAIHRII DAVID HRAILU

.....Petitioner

Through: Ms. Surbhi Sharma, Advocate

versus

JOINT RECRUITMENT CELL LOK SABHA SECRETARIAT
PARLIAMENT OF INDIA AND ANR.RespondentsThrough: Mr. Pramod Gupta, Mr. Harsh Jaiswal
and Ms. Osheen Bhat, Advocates**CORAM:****HON'BLE MS. JUSTICE JYOTI SINGH****JUDGEMENT****JYOTI SINGH, J. (ORAL)**

1. This writ petition has been preferred on behalf of the Petitioner seeking a writ of mandamus to Respondent No.1 to amend the order dated 17.01.2019 and include the name of the Petitioner as a successful candidate for the post of Executive/Legislative/Committee/Protocol Officer or Research/Reference Officer in Lok Sabha Secretariat ('LSS').

2. Facts to the extent necessary and relevant for adjudicating the present petition are that an Advertisement No.06/2017 was issued by LSS in 2017 inviting online applications for direct recruitment from eligible candidates for appointment to the posts of Executive/Legislative/Committee/Protocol Officer and Research/Reference Officer. Petitioner applied against the advertisement and admit card was issued to him on 18.08.2017. Petitioner appeared for the preliminary examination on 03.09.2017 and was declared



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successful. Thereafter, Petitioner appeared for the mains examination from 25.05.2018 to 31.05.2018. Personal interview of the candidates who qualified the mains examination was held on 28-29.10.2018 and final result was declared on 17.01.2019. 15 candidates were declared qualified against 15 vacancies (10 UR and 05 OBC) for the post of Executive/Legislative/Committee/Protocol Officer and 10 candidates were declared qualified against 10 vacancies (05 UR, 03 OBC, 01 ST and 01 SC) for the post of Research/Reference Officer.

3. It is averred in the writ petition that Petitioner scored 1081 marks and was shown at serial No.24 but against his name there was a remark “availed the benefit of ST Category in marks for qualifying preliminary/mains examination/in age. Hence, not entitled to occupy ‘UR’ vacancy”. Petitioner’s name was not included in the list of successful candidates despite his being successful and a vacancy being available in ST category.

4. It is further averred that only 02 ST candidates, namely, Bharat Lal Meena (Roll No. 103697) and the Petitioner (Roll No. 104155) were called for personal interview after the mains examination. Bharat Lal Meena obtained 1145.8 marks in aggregate in the mains examination and personal interview out of a total of 1950 marks. He availed the benefit of reservation for qualifying the examinations and since his first preference was for the post of Research/Reference Officer, he was declared qualified against 01 ST vacancy for the said post. Petitioner obtained 1081 marks out of 1950 marks and also availed the benefit of ST category, but his name was not included in the list of selected candidates against the ST vacancy for the post of Executive/Legislative/Committee/Protocol Officer.



5. Contention of learned counsel for the Petitioner is that there were total 16 vacancies in the post of Executive/Legislative/Committee/Protocol Officer in LSS, out of which 10 were for general category and as per the final result, 10 candidates were declared successful. 05 were reserved for OBC and 01 for ST and as per the result, 05 candidates were declared successful against OBC category but no candidate was successful against the ST category and therefore, Petitioner having availed the benefit of ST category ought to have been offered appointment against the ST vacancy. It is urged that 03 vacancies were left after the selection process was completed, out of which 02 were in unreserved category for the post of Research/Reference Officer while 01 was in the ST category in the post of Executive/Legislative/Committee/Protocol Officer and there was no justified reason for not filling the ST vacancy. Petitioner made representations for inclusion of his name as there was an unfilled ST vacancy, but there was no response. Impugned action of LSS violates Article 16(2) and (4) of the Constitution of India. In support of the contentions, learned counsel relies on the judgment in ***Rajesh Kumar Daria v. Rajasthan Public Service Commission and Others, (2007) 8 SCC 785***, wherein the Supreme Court has elaborately discussed how vertical and horizontal reservations have to be made.

6. Mr. Pramod Gupta, learned counsel appearing for the LSS, on the other hand, opposes the writ petition and relying on the counter-affidavit submits that 02 ST candidates Bharat Lal Meena and the Petitioner were called for interview and while the former obtained 1145.8 marks in aggregate out of maximum of 1950 marks, Petitioner obtained 1081 marks. Mr. Meena availed the benefit of ST category in marks for qualifying the



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examinations and the interview and since he had given first preference for the post of Research/Reference Officer, he was offered appointment for the said post in the ST category. Petitioner had availed the benefit of reservation in ST category in the marks and for age relaxation, but could not be included in the list of selected candidates for the post of Executive/Legislative/Committee/Protocol Officer, because 01 vacancy was reserved for PwD category with locomotor disability. No candidate in this category qualified the examination and hence the vacancy which was not confined to either the unreserved category or the reserved category, was carried forward to the subsequent recruitment year in terms of paragraph 12(b) of Recruitment and Conditions of Service Orders dated 07.09.2011 ('R&CS Orders dated 07.09.2011'). In this context, reliance is also placed on paragraph 8.4 of DoPT O.M. dated 15.01.2018. It is further submitted that the candidate who was declared qualified against 15th vacancy secured more marks than the Petitioner i.e. 1116.6 marks and no unfair treatment was meted out to him. Insofar as the judgment relied on by learned counsel for the Petitioner is concerned, Mr. Gupta submits that the same is clearly distinguishable and inapplicable to the facts of this case as there the issue was reservation in the women category which works differently than the reservations in ST and PwD category.

7. Heard learned counsels for the parties and examined their rival contentions.

8. The issue arising in the present writ petition concerns filling up of 01 ST vacancy in the post of Executive/Legislative/Committee/Protocol Officer. It is undisputed that 16 vacancies were advertised for the post of



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Executive/Legislative/Committee/Protocol Officer. 01 vacancy reserved in PwD category for locomotor disability was to be filled as per paragraph 14.1 of R&CS Orders dated 07.09.2011 of LSS which reads as follows:-

"14.1 Reservation for backward classes of citizens (SCs, STs and OBCs) is called vertical reservation and the reservation for categories such as persons with disabilities and ex-servicemen is called horizontal reservation. Horizontal reservation cuts across vertical reservation (in what is called interlocking reservation) and persons selected against the quota for persons with disabilities have to be placed in the appropriate category viz. SC/ST/OBC/General candidates depending upon the category to which they belong in the roster meant for reservation of SCs/STs/OBCs....."

9. As per the counter affidavit, after the final result was declared on 17.01.2019, 15 candidates were declared qualified against 15 vacancies (10 UR and 05 OBC) for the post of Executive/Legislative/Committee/Protocol Officer and 10 candidates were declared qualified against 10 vacancies (05 UR, 03 OBC, 01 SC and 01 ST) for the post of Research/Reference Officer. Only 02 ST candidates were called for personal interview i.e. Bharat Lal Meena and the Petitioner. Admittedly, Bharat Lal Meena obtained more marks than the Petitioner and since he had opted for the post of Research/Reference Officer, he was offered appointment against 01 ST vacancy. Petitioner was not offered appointment for the post of Executive/Legislative/Committee/Protocol Officer as the vacancy against which he claims appointment was reserved for the PwD category. Since no PwD candidate qualified the examination, this vacancy was carried forward to the next recruitment year as per paragraph 12(b) of the R&CS Orders dated 07.09.2011. Paragraph 12(b) provides that if any vacancy reserved for any category of disability cannot be filled due to non-availability of a suitable person with that disability or for any other sufficient reason, such



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vacancy shall not be filled but will be carried forward as a 'backlog reserved vacancy' to the subsequent recruitment year, which is what LSS has done.

Paragraph 12(b) is extracted hereunder for ready reference:-

"12(b). If any vacancy reserved for any category of disability cannot be filled due to non-availability of a suitable person with that disability or, for any other sufficient reason, such vacancy shall not be filled and shall be carried forward as a 'backlog reserved vacancy' to the subsequent recruitment year."

10. The 16th vacancy was, therefore, rightly carried forward to the next recruitment year and Petitioner cannot stake a claim against the said vacancy. Moreover, it is also pointed out that the candidate who had qualified against the 15th vacancy, had secured 1116.6 marks, which were more than the Petitioner who secured 1081 marks and no unfair treatment has been meted out to the Petitioner. No infirmity can be found with the action of the Respondents.

11. For all the aforesaid reasons, the writ petition is dismissed being devoid of merit.

JYOTI SINGH, J

SEPTEMBER 11, 2024/kks