

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH

O. A. NO. 1345/2002

New Delhi, this the 3<sup>rd</sup> day of February, 2004

HON'BLE SHRI JUSTICE V.S. AGGARWAL, CHAIRMAN  
HON'BLE SHRI S.A.SINGH, MEMBER (A)

Ms. Dodda Padmavathi  
d/o Shri D. Sadshivudu  
aged about 28 years  
Resident c/o Dr. P.Kiran  
Kumar, 141-A, Arjun Nagar,  
Safdarjung Enclave,  
New Delhi - 110 029. .... Applicant

(By Advocate: Shri B. B. Rayal)

## Versus

1. Union of India  
through The Secretary  
Ministry of Defence  
Government of India  
South Block, New Delhi - 110 001.  
and
2. The Chairman, Defence Research & Development  
Organisation, Government of India  
Recruitment & Assessment Centre  
Lucknow Road, Timarpur,  
Delhi - 110 054. .... Respondents

(By Advocate: Shri K.C.D. Gangwani)

ORDER

Justice V. S. Aggarwal :-

The applicant Ms. Dodda Padmavathi has passed B.Tech from Jawahar Lal Nehru Technological University, Hyderabad. The Defence Research and Development Organisation had issued an advertisement in the Hindustan Times inviting applications for various posts including Scientist 'B' Electrical Engineering. The applicant also applied for the same. She appeared in the interview on 12.9.2001. Applicant contends that the respondents (Defence Research and Development Organisation) did not publish the result/waiting list.

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2. In October 2001, the said institution issued another advertisement inviting applications for various posts (425) including Scientist 'B' Electrical & Electronics Engineer (9 posts) as well as Electrical Engineer (11 posts).

3. By virtue of the present application, she seeks that respondents should be directed to publish the results including the waiting list consequent to the interview held in the advertisement referred to above and to direct the respondents to empanel the applicant in the list of selected candidates. Further, it is prayed that the respondents should consider the applicant and should be appointed against one of the vacancies advertised in the subsequent advertisement.

4. On earlier occasion, the applicant had <sup>this</sup> filed OA No. 1345/2002. When this matter came up for hearing, this Tribunal had directed:

"In the circumstances, the OA is being disposed of at the admission stage itself with the following directions:-

(a) The respondents are directed to examine the aforesaid representation dated 26.03.2002 on its merits in the light of the relevant rules/instructions and judicial pronouncements on the subject and pass a detailed and speaking order under intimation to the applicant within four weeks from the date of receipt of a copy of this order.

(b) If any grievance still survives thereafter the applicant is given liberty to revive this OA through an MA if so advised, in accordance with law."

5. On 14.6.2002, the respondents rejected the request of the applicant and the order reads:

*Ms Ag*

"1. Please refer to your letter No. nil dated nil.

2. It is hereby intimated that the result had already been communicated to all the selected candidates by concerned office of the DRDO. The Selection Board did not recommend your name in the Select List. A detailed reply to the order of Hon'ble CAT dated 22nd May 2002 is being sent by the appropriate authority of DRDO."

6. In pursuance of the earlier order that was passed by this Tribunal, the applicant's application was allowed and the OA had been revived.

7. The application has been contested. Respondents plead that the preparation or non-preparation of waiting list does not give cause of action for moving to this Tribunal. The selection Board had not recommended the name of the applicant in the selected list. The successful candidates had been intimated of the results. So far as the advertisement that was issued subsequently is concerned, the respondents plead that it has no connection with the vacancies of the earlier advertisement. Thus, it is contended that the applicant does not have a fundamental right, which has been violated.

8. At the very out set, the learned counsel for the applicant vehemently contended that the applicant appeared for the interview in September, 2001. Within few weeks thereto, a fresh advertisement for 425 posts including the Electrical and Electronics Engineer had been issued. According to the learned counsel, there was no question of issuing a separate advertisement. All the posts should have been clubbed, and the manner in which it has been so done, deprived the applicant from applying in this regard.

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9. Even at the first blush, one felt that it should have been done. But, on closer scrutiny, it is obvious that the contention must fail. It is the prerogative of the administration/department, to consider the number of vacancies which it would like to fill. If it was felt that the advertisement had to be issued on two different occasions, it does not confer a right on the applicant that they should be clubbed together.

10. It was for the applicant to deem it appropriate to apply again in the second advertisement, and once ~~he~~ did not do so, we find no reason to accept the said contention.

11. We may take advantage in referring to the decision of the Supreme Court in the case of Rakesh Ranjan Verma and Others v. State of Bihar and Others, 1992 SCC (L&S) 866. In the said case a panel had been prepared for all the candidates for the posts of Junior Electrical Engineers in the State Electricity Board. It was found to be in excess of the available posts. The options were given to them by Board for appointment to the lower post of Operators accepted by furnishing undertaking. Besides, the fact that the life of the panel had expired, the Supreme Court held that mere existence of some vacancies before expiry of one year period is not sufficient to confer any such right unless the Board decided to fill them. In other words, the applicant also cannot insist that the earlier vacancies should have been clubbed with the vacancies for which the applicant applied.

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12. Another argument which requires consideration was that according to the applicant, the result was not published nor the applicant was informed. The respondents contend that they had informed the successful candidates in this regard. The respondents pointed that the name of the applicant had not been recommended for selection.

13. It deserves the mention, at this stage, that it is the prerogative of the selection body to assess the merit of the concerned persons. It does fall within the domain of the Tribunal to impose, it's opinion even if it to the contrary. The scope of interference will be, if there is a mala fide or any other extraneous matter that has crept in. In the present case, we find that it is not so. There is not even a whisper in this regard. Merely because the unsuccessful candidates have not been informed, will not itself vitiate the selection process. We only mention that it would be proper that the unsuccessful candidates are also be informed to remove any ambiguity in this regard. But if it is not so done, it will not vitiate nor confer any such right as claimed by the applicant.

14. The main submission that was put forward was that the applicant was not informed if there is a waiting list. It find it to be without merit.

15. Waiting list is prepared only to remain in the panel which may exist for some time. However, it cannot be permitted that it is mandatory that

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waiting list must be prepared. It is a settled principle in law that even if a person is in the waiting list, he does not have a right of appointment.

16. We seek support in coming to this conclusion from the decision of the Supreme Court in the case of Sanjoy Bhattacharjee v. Union of India and Others, (1997) 4 SCC 283. In the cited case, the appellant before the Supreme Court was at Sl. No. 779 against the notified vacancies of 480. He also contended that the fresh recruitment should not be resorted to unless he was appointed, being in the waiting list. The Supreme Court repelled the contention and held:

"Selection was made only for filling up 480 vacancies; after the absorption thereof, selection has to be made for the subsequent vacancies from the open market and, therefore, directions sought could not be given. We find that the reasons given by the Tribunal are well justified. Merely because the petitioner has been put in the waiting list, he does not get any vested right to an appointment. It is not his case that anyone below his ranking in the waiting list has been appointed which could give him cause for grievance. Thus, he cannot seek any direction for his appointment."

17. Almost identical directions had been given in the decision of the Supreme Court in the case of Surinder Singh and Others v. State of Punjab and Another, (1997) 8 SCC 488. The Supreme Court held that the person in the waiting list has no right. In this context, it was concluded:

"15. Prem Singh case [(1996) 4 SCC 319] was decided on the facts of that case and those facts do not hold good in the present case. In the case of Gujarat State Dy. Executive Engineers' Assn. [(1994) 28 ATC 78] this Court has explained the scope and intent of a

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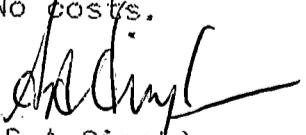
Waiting list and how it is to operate in service jurisprudence. It cannot be used as a perennial source of recruitment filling up the vacancies not advertised. The Court also did not approve the view of the High Court that since vacancies had not been worked out properly, therefore, the candidates from the waiting list were liable to be appointed. Candidates in the waiting list have no vested right to be appointed except to the limited extent that when a candidate selected against the existing vacancy does not join for some reason and the waiting list is still operative."

18. Therefore, the conclusions would be that even though waiting list is prepared, and even if the name of the applicant was in the waiting list, she could not insist that she must be appointed.

19. We have perused the relevant official records and we find that the applicant's name had been shown in the panel prepared for selection at Sl. No.7 in the category of Unreserved. However, the Selection Board had recommended only two persons from the Unreserved category for appointment and remaining two persons in the Unreserved category have been recommended for waiting list. In any way, the applicant's name had not been recommended either for appointment or for waiting list. Hence, the applicant has no right for appointment.

20. Resultantly, the application being without merit, must fail and is accordingly dismissed.

No costs.

  
(S. A. Singh)  
Member (A)

  
(V. S. Aggarwal)  
Chairman

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