



CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH
CIRCUIT SITTING : INDORE

Original Application No.201/01160/2016

Indore, this Monday, the 16th day of March, 2020

HON'BLE MR. NAVIN TANDON, ADMINISTRATIVE MEMBER
HON'BLE MR. RAMESH SINGH THAKUR, JUDICIAL MEMBER

Bharat Kumar Gehlot, S/o Shri Bherulal Gehlot,
 Age : 26 years, Occupation : Unemployed,
 R/o Village & Post Office Lohari,
 Tehsil Kukshi, PIN : 454335,
 District Dhar (MP)

-Applicant

(By Advocate – Ms. Neerja Patne with Shri Praveen Bawse)

V e r s u s

1. The Union of India
 through Secretary to the Govt. of India,
 Ministry of Defence, 101-A, South Block,
 New Delhi – 110001.
2. The Director General, Border Road Organization,
 Seema Sadak Bhawan, Naraina, Ring Road,
 New Delhi – 110010.
3. The Secretary to the Govt. of India, Ministry of Social Justice
 and Empowerment, Department of Disability Affairs,
 5th Floor, Paryavaran Bhawan, CGO Complex,
 New Delhi – 110003.
4. Staff Selection Commission (MP Region),
 Government of India, Ministry of Personnel,
 Public Grievances and Pensions, J-5,
 Anupam Nagar,
 Raipur – 492007 (Chhattisgarh)
 through its Deputy Director

-Respondents

**(By Advocate – Shri Kshitij Vyas for respondents Nos.1 and 2 and
 Ms. Seema Sharma for respondent No.4)**



ORDER (ORAL)

By Navin Tandon, AM.

The applicant is aggrieved that respondent No.2 has rejected his candidature for appointment on the post of Junior Engineer (Civil) on medical ground 'Stammering', whereas there is no such disqualification provided under the Recruitment Rules for Border Road Organization (for brevity 'BRO').

2. The undisputed facts of the case are as under:

2.1 Staff Selection Commission (hereinafter referred to as 'SSC') had issued advertisement on 01.03.2014 (Annexure A-2) for Junior Engineers (Civil, Mechanical, Electrical, Quantity Surveying and Contract) Examination 2014, wherein the applicant appeared and was selected provisionally for the post of Junior Engineer (Civil).

2.2 Respondent No.2 issued letter dated 01.08.2015 (Annexure A-3) calling the applicant for medical examination. After the medical examination, he was declared temporary unfit on 21.09.2015 (Annexure A-4). Subsequently, his candidature for the post of Junior Engineer (Civil) was cancelled vide order dated 29.04.2016 (Annexure A/6).

3. The applicant submits that there was no such requirement mentioned in the advertisement by which he could have been made medically unfit for Stammering.



4. The applicant has sought for the following reliefs:

- “8.1 to call the relevant records of the case from the respondents;
- 8.2 to quash the impugned rejection letter dated 29.04.2016 (Annexure A/6) issued by respondent no.2 by an appropriate order or direction in the interest of justice;
- 8.3 to command the respondents to issue appointment order in favour of the applicant for the post of Junior Engineer (Civil) under respondent no.2 Organization by granting the applicant all consequential and monetary benefits including arrears of salary together with interest at the rate of 12% per annum by an appropriate order or direction in the interest of justice;
- 8.4 to command the respondent no.4 Commission to allot any other services to the applicant and recommend for appointment on the post of Junior Engineer (Civil) under (i) Central Public Works Department (CPWD), (ii) Department of Posts, or (iii) Central Water Commission (CWC) in the order of merit given here by an appropriate order or direction in the interest of justice;
- 8.5 to allow this application with costs; and
- 8.6 to pass such other orders as may be deemed appropriate to grant relief to the applicant.”

5. Respondents Nos.1 & 2 in their reply have made the following submissions:

5.1 As held by Hon’ble Supreme Court in SLP No.8096/1995 (Union of India & Anr. vs. Smt. Vidyawati), General Reserve Engineering Force (in short ‘**GREF**’) being an integral part of Armed Forces of India, does not come within the jurisdiction of this Tribunal.

5.2 GREF had received total number of 859 of dossier from SSC who were provisionally selected candidates for the post of Junior Engineer (Civil).



5.3 It has been clearly indicated in the advertisement that the candidates will have to be got medically examined (Annexure R-8).

5.4 Stammering for which the applicant is suffering would interfere during usage of Radio Telephony where clear-cut messages are required to be passed well within the shorter period due to security reasons.

6. Respondent No.4 have submitted their reply and additional reply in which the following submissions are made:

6.1 The applicant had scored a total of 296.75 marks.

6.2 The first four choices of the applicant are JE(C) in Central Water Commission, JE(C) in CPWD, JE (QS & C) in MES and JE (C) in MES, in which the cut-off marks were 328.25, 334.5, 322.0, 323.0 respectively.

The next choice was JE (C) in Department of Posts where there was no vacancy. The next choice was JE (C) with Border Roads Organisation (BRO) where the cut-off marks were 287.5 and the applicant was empanelled.

6.3 The last choice was for JE (C) Farakka Barrage where there was no vacancy.

7. Heard the arguments of learned counsel of all the parties and perused the pleadings available on record.



8. We dwell on the subject of whether this Original Application is within the jurisdiction of this Tribunal or not.

9. It was fairly submitted by learned counsel of all the parties that as far as service matters of GREF is concerned, it would not fall within the jurisdiction of this Tribunal.

9.1 However, in this case, it is the SSC which has conducted the examination and is allotting the candidates to different organisations. The jurisdiction as far as SSC is concerned, is very clearly within this Tribunal. Therefore, the subject matter up to the selection and distribution of panels definitely falls within the jurisdiction of this Tribunal.

10. From the reply of respondent No.4, it is very clear that the applicant could be allotted only one organisation i.e. JE (C) in BRO. All the other choices were either beyond his merit or there was no vacancy. Therefore, so far as the grievance vis-à-vis allotment by SSC is concerned, it is very clear that he could have been allotted only BRO.

11. The advertisement itself has very clearly specified in Annexure R-8 that the candidates will have to get themselves medically examined before appointment letter could be issued. The respondents Nos.1 & 2 have categorically stated that the applicant has failed to clear the medical standards of the respondent department and, therefore, they are unable to issue the appointment letter to him. Therefore, we do not find anything



wrong in the action of respondents Nos.1 & 2 in not offering the appointment letter.

12. Learned counsel for the applicant brought our attention to Para 5.4 of the O.A., which reads as under:-

“5.4 That, the medical problem of the applicant of ‘Grade III, IV Systolic Murmur Mitral Area and Stammering’ does not come in way of the applicant in getting appointment on the post of Junior Engineer (Civil) considering the nature of duties and responsibilities to be shared by the applicant after his appointment on the post of Junior Engineer (Civil) with respondent No.3 organization.”

12.1 We have considered the matter and find that this grievance is only between the applicant and BRO, which does not fall within the jurisdiction of this Tribunal.

13. Accordingly, this Original Application is dismissed as far as the relief in Para 8.4 is concerned. As far as relief in Para 8.2 and 8.3 is concerned, the applicant is at liberty to approach the appropriate forum for the same.

14. The Original Application is accordingly disposed of in above terms. No costs.

(Ramesh Singh Thakur)
Judicial Member

am/-

(Navin Tandon)
Administrative Member