

**CENTRAL ADMINISTRATIVE TRIBUNAL,
MUMBAI BENCH, MUMBAI**

ORIGINAL APPLICATION No.210/00252/2012

Dated this Thursday, the 16th day of January, 2020

**CORAM : DR. BHAGWAN SAHAI, MEMBER (A)
R.N.SINGH, MEMBER (J)**

Babasaheb Sukhdev Tandale, Aged 24 years, Residing at : 120/1,
Kanade Mala, Solapur Road, Ahmednagar 414 001. - **Applicant**
(By Advocate Shri A.I.Bhatkar)

VERSUS

1. Union of India, Through the Secretary, Ministry of Defence
(Indian Air Force), Vayu Bhavan, New Delhi 110 001.
2. The Station Commander, 411 Air Force,
Cotton Green, Mumbai 400 033.
3. The Air Officer Commanding-in-Chief, HQ,
Southern Western Air Command, Gandhi Nagar,
Gujarat, Pin 382 009.
4. The Joint Director Personnel Civilian-V, Air Headquarters,
Vayu Bhavan, Rafi Marg, New Delhi 110 011. - **Respondents**
(By Advocates Shri V.S.Masurkar and Shri V.B.Joshi)

ORAL ORDER

Per : R.N.Singh, Member (Judicial)

Shri A.I.Bhatkar, learned counsel for the applicant.

Shri V.S.Masurkar and Shri V.B.Joshi, learned counsels for
the respondents.

2. In the present OA, filed under Section 19 of the
Administrative Tribunals Act, 1985, the applicant has prayed for the
following reliefs:

“8(a). This Hon'ble Tribunal will be graciously pleased to
call for the papers pertaining to the issuance of the
impugned order dated 19th April 2012 and after going
through the legality and validity of the same quash and set
aside the same.

8(b). This Hon'ble Tribunal will be graciously pleased to

hold and declare that the Applicant has been selected finally for the post of Watchman under OBC category.

8(c). This Hon'ble Tribunal will be graciously pleased to direct the Respondents to issue appointment order to the Applicant for the post of Watchman under OBC category.

8(d). This Hon'ble Tribunal will be graciously pleased to pass such other and further orders as deemed fit in the facts and circumstances of the case.

8(e). Cost of this application be awarded to the Applicant."

3. The brief facts leading to the present OA are that the applicant in pursuance of an advertisement given by the respondents in Employment News dtd. 10.06.2011 applied for the post of Watchman and on undergoing the selection process his name appeared in the provisional select panel prepared by the respondents.
4. The learned counsel for the applicant submits that the applicant was required to undergo medical examination as well and the steps were taken also for Police verification in respect of all the applicants.
5. The learned counsel for the applicant further argues that subsequently in place of issue of an offer of appointment to the applicant and allowing him to join the post for which he had applied and his name appeared in the select panel prepared by the respondents, the respondents revised the select panel and allowed the persons whose names appeared in the merit list of revised select panel dated 12.04.2012 (Annex R-7).
6. The applicant has further been informed vide the impugned communication dated 19.12.2012 that in pursuance of the aforesaid

advertisement, certain candidates were informed of their provisional selection for the advertised posts and to undergo medical examination, etc. However, during the final verification of complete proceedings before issuing the appointment order/letter vis-a-vis implementation of the reservation policy of the Government, it was observed by the respondents that certain errors were made during the preparation of the provisional/initial merit list and same were rectified and therefore, a revised merit list was prepared in order to implement Government instructions on the subject and the name of the applicant did not figure in the final merit list for selection of the watchman.

7. The learned counsel for the applicant argues that once the initial select list was prepared by the respondents in which his name appeared as Serial No.2, the respondents were precluded from revising the same. However, he does not dispute the fact that in pursuance of such merit list neither any offer of appointment was issued to the applicant nor the applicant has reported for and was allowed to assume the duties.

8. The learned counsel for the applicant further submits that even in the revised merit list, the name of the applicant appeared but lower in the merit list (at Serial No.7). Thereafter, he could not get the appointment for the reasons that there were only two vacancies for the post of Watchman under OBC category.

9. In response to the notice from this Tribunal, the respondents have filed a detailed reply. In the reply, the respondents have vehemently opposed the claim of the applicant and with the

assistance of the reply so filed by the respondents, Shri V.S.Masurkar, learned counsel vehemently argues that the present OA is misuse of process of law inasmuch as no prejudice has been caused to the applicant. He further submits that mere finding place in the select panel and that too provisional in nature does not bestow any enforceable right to the applicant. He further argue that the Competent Authority revisited such provisional panel to remove the deficiencies in the matter of selection and preparation of such panel. He further invites our attention to the relevant paragraph of the reply wherein the respondents have contended that the entire proceeding for preparation of the initial select panel was revisited with the approval of the Competent Authority in order to follow the relevant Government instructions on subject and therefore, the applicant has no right to seek employment on the basis of provisional select panel. He also argues that in absence of any challenge to the revised select list and employment of the persons who have subsequently been appointed by the respondents and continuing on the concerned post, the OA is not maintainable.

10. In rejoinder, Shri A.I.Bhatkar, learned counsel for the applicant reiterates that in fact the initial select panel has not indicated that the said panel was provisional in nature and was likely to be revisited and revised by the respondents.

11. We have perused the pleadings on record and have considered the arguments of the learned counsels for the parties. It is the settled law that mere inclusion of name of a candidate in the provisional select panel does not bestow any enforceable

right for the appointment, more so when even an offer of appointment is not issued to such candidate. However, for the reasons his name appears lower in the merit list as in the present case the applicant could not be offered appointment.

12. In view of the aforesaid, we find the OA to be devoid of any merit. The same is accordingly dismissed.

13. However, in the facts and circumstances, no order as to costs.

(R.N.Singh)
Member (Judicial)

(Dr. Bhagwan Sahai)
Member (Administrative)

kmg*

JD
30/01/20

