

Central Administrative Tribunal, Principal Bench

Original Application No. 2221 of 1998

with

O.A. No. 1191 of 1999

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New Delhi, this the 22nd day of November, 2000

Hon'ble Mr. Kuldip Singh, Member (J).

Hon'ble Mr. M.P. Singh, Member (A)

OA 2221/1998

Shri Hira Lal S/o Shri Surjan Singh
R/o Village Ransi Majri Post Office, Nangal Jesu
District Rewari, Haryana. Applicant

Versus

1. Union of India
Through Secretary,
Ministry of Personnel & Public
Grievances,
Department of Personnel & Training,
North Block,
New Delhi.
2. Secretary,
Staff Selection Commission,
CGO Complex, Lodi Road,
New Delhi.
3. The Commissioner of Police,
Police Headquarters,
MSO Building,
IP Estate,
Delhi-110 002.
4. Regional Director (NR)
Staff Selection Commission,
CGO Complex, Lodhi Road,
New Delhi.

OA 1191/1999

Shri Surender Singh S/o Shri Harlal Singh
R/o House No. 336/29 Delhi Road Bye Pass
Opp. Skyhawk Restaurant Near Sector-I,
Rohtak Haryana
Pin-124 001. Applicant

Versus

1. Union of India
Through Secretary,
Ministry of Personnel & Public
Grievances,
Department of Personnel & Training,
North Block,
New Delhi.

2. Secretary,
Staff Selection Commission,
CGO Complex, Lodi Road,
New Delhi.

3. Dy. Director (NR)
Staff Selection Commission,
CGO Complex, Lodi Road,
New Delhi.

4. The Commissioner of Police,
Police Headquarters,
MSO Building,
IP Estate,
Delhi-110 002.

... Respondents

Advocate for Applicants: Shri Jog Singh.

Advocate for respondents: Shri V.S.R. Krishna.

O R D E R

By Hon'ble Mr. Kuldeep Singh, Member (J)

By this common judgment we will decide two OAs mentioned above since the facts involved in both the cases are common.

2. The applicants seek direction to be given to the respondents to appoint them to the post of Sub Inspectors against the vacancies which may arise in future years as their preferential rights. They have also prayed for the quashing of the impugned orders dated 1.1.1998 (in respect of OA 2221/98) and 9.1.1998 (in respect of OA No. 1191/99) vide which their representations for being considered for appointment to the post of Sub Inspector in pursuance of the Hon'ble Supreme Court judgment and order dated 14.8.1997 in SLP Nos. 16356-16359/96 with SLP No. 24653 and Central Administrative Tribunal, Principal Bench order dated 2.9.97 in OA Nos. 650/97 and OA 2625/97 dated 19.11.1997.

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3. Facts in brief are that the applicants had appeared for a Competitive Examination conducted by the Staff Selection Commission (hereinafter referred to as SSC) for recruitment to the post of Sub Inspectors in Delhi. The said examination was held in July, 1994 and according to the Scheme of the examination the candidates were required to appear in written examination consisting of General Test - General Intelligence and Reasoning, General Awareness and Numerical Ability and Paper III was called as Hindi and English both. And the second part of the same was personality test comprising 100 marks. The applicants had a grievance that while evaluating paper of language test the SSC had adopted a method by which a candidate to be declared as qualified was required to obtain certain marks in Hindi as well as in English instead of aggregate marks in the language paper, because of that some of the persons were left and some undeserving persons were called for physical endurance test etc. and were appointed. The result was challenged in an earlier litigation by some of the candidates which went upto the Hon'ble Supreme Court. The Hon'ble Supreme Court gave certain directions and had also directed the respondents to appoint all the petitioners if the vacancies are available. The present applicants also filed an OA bearing No.650/97 decided on 2.9.97 and OA No.2625/97. decided on 19.11.1997 wherein the following directions were given:-

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"OA 650/97

(19)

We, therefore, direct the respondents to consider the case of the petitioner not on the basis of the bench mark subsequently prescribed for the language test, but on the basis of the overall grade, that he obtained along with all other candidates who have been declared successful in the year 1994 examination, if additional vacancies are available to accommodate the petitioner. The respondents shall pass appropriate order within 4 weeks from the receipt of this order. We would like to observe, before parting with this case, that the respondents shall on their own, consider the case of similarly placed other persons if any further additional vacancies are available for the same year, that still remains unfilled, without letting each of those candidates to come to this Court. We would appreciate if the respondents do this exercise on their own, to the extent possible."

OA 2625/97

"2. The decision of the Supreme Court itself shows that the respondents were directed to consider for appointment against available vacancies the

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petitioners and other similarly situated candidates on the basis of merit as per the aggregate of the marks obtained by them in all the papers and if on the basis of such consideration it is found that the petitioners can be so appointed the respondents shall appoint them against the existing vacancies by relaxing the requirement of minimum qualifying marks prescribed for Hindi in Paper III. Accordingly we dispose of this OA by directing the respondents that if the applicants can also be considered for selection pursuant to the said order of the Supreme Court, they shall be so considered and given appointment if found fit for such appointment. Accordingly at the admission stage itself, this case is disposed of".

4. Thereafter the applicants made representations which were rejected by the impugned order dated 1.1.1998 and 9.1.1998. Hence these OAs.

5. In the grounds to challenge these orders the applicants have stated that they are meritorious than the other persons who had been appointed and hence have preferential rights to be appointed to the posts. It is also alleged that respondents had wrongly appointed the candidates during the pendency of the cases before the Tribunal when the merit in question based on impugned selection was itself in dispute and

thus the respondents have deliberately frustrated the legitimate expectations of the applicants to be appointed to the post of Sub Inspectors.

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6. The OAs are being contested by the respondents. The respondents in their reply submitted that the SSC had conducted the examination in July, 1994 and as per the notified Scheme, the candidates were examined and were duly appointed.

7. Respondents further pleaded that since the matter had been earlier gone upto the level of the Hon'ble Supreme Court and as per the directions of the Hon'ble Supreme Court the case of the applicants were also considered, but since the vacancies were not available so the applicants could not be appointed and that is why the orders dated 1.1.1998 and 9.1.1998 had been passed.

8. We have heard Shri Jog Singh, learned counsel for the applicant and Shri V.S.R. Krishna, learned counsel for the respondents.

9. The learned counsel appearing for the applicants submitted that a perusal of the impugned orders dated 1.1.1998 (in OA No.221/98) and 9.1.1998 (in OA No. 1191/99) shows that these are based on the plea that the vacancies are not available so the representations of the applicants had been rejected. It is further submitted by the learned counsel for the applicants that the applicants are not only asking for preferential right to be appointed for the year 1994

Examination but he has also prayed that they have a preferential right to be appointed for vacancies arising in future years and since the applicants had qualified the test despite pendency of the litigation the respondents had appointed less meritorious persons so the applicants had a preferential right to be appointed if not against the vacancies notified for the year 1994 then at least for the future vacancies they had a preferential right and in support of his contention he has also referred to the judgments given in OA 650/97 and 2625/97.

10. We have considered these aspects carefully and from a perusal of the judgments in OA Nos. 650/97 and 2625/97, we find that this Tribunal had given specific directions to the respondents that the applicants may be considered if any further additional vacancies are available for the same years, as quoted above in the extract of the judgments quoted above.

11. Thus we find that in the earlier OA Nos. 650/97 and 2625/97 the Court had also restricted the right of the applicants to be considered for the additional vacancies which could be available for the same years (emphasis supplied). So by now present OAs, the applicants cannot rake up the issue again and ask for preferential right of appointment for vacancies for the future years because to that extent the filing of the present OAs are barred by principles of res judicata as well.

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12. As regards the vacancies available for the same year is concerned, the respondents have already pointed out that after the judgment given by the Hon'ble Supreme Court the applicants had also filed a CP before the Hon'ble Supreme Court as the applicant could not be accommodated in any vacancy and in the CP a reply was also filed that no vacancies are available and the CP was dropped and no action was taken and the department had already carefully considered about the number of vacancies and since no vacancy is available for the same year, so the applicants were considered but could not be appointed and that is why the impugned orders had been passed rejecting their representations.

13. In view of the above, we find that these OAs have no merits and the same are rejected. No costs.

14. Let a copy of this order be placed in OA No. 2221/98 and 1191/99.

(M. P. Singh)
Member (A)

Member (A)

/Rakesh/

[Signature]
Court Officer
Central Administrative Tribunal
Pr Bench, New Delhi
Faridkot House,
Carnatic Marg,
New Delhi 110001