

Central Administrative Tribunal
Principal Bench: New Delhi

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O.A. No.2648/99

New Delhi this the 28th day of June 2000

Hon'ble Mr. Justice Ashok Agarwal, Chairman
Hon'ble Mr. V.K. Majotra, Member (A)

Shri Mukesh Vashistha,
S/o Shri B.P. Sharma,
Village & Post Officer Dabka, Meerut.

...Applicant

(Present: None)

Versus

1. Union of India, through Ministry of Defence,
through its Secretary, South Block, New Delhi.
2. Government of India, Ministry of Defence,
Ordinance Factory Board, Murad Nagar, 201 206.
3. Directorate General of Employment and Training
Ministry of Labour, 2A/3 Asafali Road, Kundam
Mansion, New Delhi.

..Respondents

(By Advocate: Shri V.S.R. Krishan)

ORDER (Oral)

By Mr. Justice Ashok Agarwal

The applicant and his Advocate are absent,
Though time was obtained on 22.5.2000 for putting in
rejoinder, ~~the~~ same has not yet been filed. We
have heard Shri V.S.R. Krishna, who has appeared on
behalf of the respondents. In the circumstances, we
proceed to dispose of the OA in the absence of the
applicant and his Advocate in terms of Rule 15 of
Central Administrative Tribunal (Procedure) Rules,
1987.

2. The applicant who belongs to ^{the} General
category had applied for the post of T.G.T.
(English) at the Ordinance Factory, Murad Nagar in
pursuance of an advertisement published in the

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Employment News No.19/98. He prays for a direction to the respondents to declare the result in respect of the said test. He also impugns the further advertisement, inviting applications for the very same post of T.G.T. (English) published in the Employment News dated 4-10.9.99.

3. The respondents have opposed the prayers on grounds, inter alia that the reservation of posts have undergone a change consequent upon the decision of the Hon'ble Supreme Court in the case of R.K. Sabharwal & Ors. Vs. State of Punjab & Ors. 1995 (2) SCC 745. The post in which the applicant applied has now been reserved for OBC. Applicant in the circumstances is no longer eligible for appointment. The earlier selection process has been scrapped. The reservations are now post-based and not vacancy-based.

4. In the case of Shankarsan Dash vs. Union of India, 1991 (3) SCC 47 the Supreme Court has ruled as under:

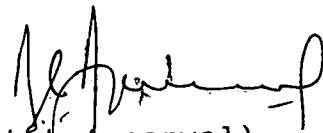
"Even if a number of vacancies are notified for appointment and adequate number of candidates are found fit, the successful candidates do not acquire any indefeasible right to be appointed against the existing vacancies. Ordinarily the notification merely amounts to an invitation to qualified candidates to apply for recruitment and on their selection they do not acquire any right to the post. Unless the relevant rules so indicate, the State is under no legal duty to fill up all or any of the vacancies. However, it does not mean that the State has the licence of acting in an arbitrary manner. The decision not to fill up the vacancies has to be taken bona fide for appropriate reasons. And if the vacancies or any of them are filled up,

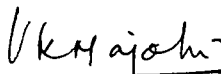
the State is bound to respect the comparative merit of the candidates, as reflected at the recruitment test, and no discrimination can be permitted".

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5. As far as the present case is concerned, the old selection process has been scrapped on account of the change of roster as a consequence of the decision in the aforesaid case of R.K. Sabharwal. In the circumstances no claim can, therefore, be made by the applicant based on the earlier selection process which now has been bonafidely scrapped, especially when the applicant has not even been selected in the said selection process.

6. The present OA in the circumstances is dismissed. No order as to costs.


(Ashok Aggarwal)
Chairman


(V.K. Majotra)
Member(A)