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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI.

D.A. No. = 1800/94

New Delhi, this the 27th October, 1994.

HON'BLE SHRI J.P.SHARMA, MEMBER (J)

HON'BLE SHRI B.K.SINGH, MEMBER (A)

1. Amit Kumar s/o Sh. Kishan Lal,

2. Dharmendra Kumar s/o Sh. Kishan Lal
R/O WZ-17, Raj Nagar
Palam Colony, New Delhi- 45

....Applicants.

By Advocate: Shri V.P.Sharma.

VERSUS

1. Union of India, through the Secretary
Ministry of Defence, Sena Bhawan,
South Block, New Delhi.

2. The Chief of the Air Staff
Vayu Bhawan, New Delhi.

3. The Air Officer commanding in Chief
HQs Maintenance Command, IAF,
Air Force, Nagpur.

4. The Air Officer Commanding
A.M.S.E., Air Force Station,
Palam, New Delhi- 110 010.

....Respondents.

By Advocate: Shri M.M.Sudan.

Order (oral)

HON'BLE SHRI J.P.SHARMA, MEMBER (J)

The grievance of the applicant is that they have been engaged on seasonal basis as Anti Malaria Lascars by respondent No. 4 Air Force Station, Palam. It is stated that the applicants have not been considered for induction into the regular cadre of Anti Malaria Lascars though they were eligible. The applicants jointly filed this application in September, 1994 praying

for the grant of the relief that the applicants be preferred in their engagement with respect to outsiders and juniors for the post of Anti Malaria Lascars and be also considered for regularisation in service in preference to the juniors and outsiders.

On notice the respondents contested this application and besides taking a number of pleas in rebuttal stated that the interview for the post of Anti Malaria Lascars had already been taken place on 12th July, 1994 when seven candidates were selected and since ST candidate could not be selected at that time so subsequently interview was held when the section Board interviewed 23 ST candidates and one ST candidate was selected and two were kept in stand by. It is also stated that Sh. Dharminder Kumar was caught for eve teasing by Naib Subedar Ramesh Chander. However, in para No. 4.4 of the counter, it is stated that as per the list received from the Employment Exchange a selection was held for appointment to the post of Anti Malaria Lascars in May, 1994 and since the name of the applicants was not in that list, and they could not be called for interview.

The applicants' counsel have also filed rejoinder but the averments in para No. 4.4 of the counter has not been rebutted by making any averment to the effect that respondents have clandestinely inducted persons ignoring the claim of the applicants. What is stated in reply of para No. 4.4 is that the

applicants should have also been considered when the interview was held subsequently. The other points raised in the original application has been reiterated in the rejoinder annexing with it, certain more copies of the judgements delivered by the Principal Bench.

We heard the counsel for the applicants at length. Basically it is expected that a person who has already served for a number of years, though occasionally and has already been tested by the employer has preference to the freshers though sponsored by Employment Exchange, such persons though may not have right of an appointment but atleast they can aspire for consideration, ignoring the claim of such persons is not proper under the principles of natural justice and parameters which could apply for appointment and selection by model employer like Union of India.

However, by interim direction dated 9th Sept., 1994 we have directed the respondent to consider the applicants also in any interview which is to be held on 12th September, 1994. On perusal of the record of the selection placed of the interview held on 12th September, 1994 we find that 23 ST candidates were called and no general category candidate was interviewed. Out of these 23 ST candidates a panel of three was prepared and the two lower in the merit were kept in waiting list. The applicants, therefore, cannot have any grievance on that account. The respondents have not appointed any general category candidate by the interview held on 12.9.1994.

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It is also expected that the respondents could comply with their own recruitment rules and administrative instructions on this point. It transpires from the recruitment rules that the vacancies are to be filled up from the lower formation of Defence services and failing which by direct recruitment. The difficulty faced is that the applicants have not challenged the selection or Selection process adopted by the respondents. Therefore, we are not pressing the matter in further details.

Since the applicants have worked and have also been engaged in the current Anti Malaria season will likely be discharged by 31st October, 1994. They have already been in the department in two consecutive seasons, working with the respondents and they have a claim to be considered as and when any regular induction of candidates takes place in the cadre of Anti Malaria Lascars.

In view of this facts and circumstances we dispose of the application in line with the earlier decision given by the Principal Bench, copies of which have been enclosed with the Original Application as well as with the rejoinder and directing the respondent as follows:-

- (1) That the applicants would be preferred to outsiders and freshers. They may be on seasonal engagement basis and whenever there is a job requirement and the regular incumbents are not available and in this respect the applicants have to be preferred to the juniors/freshers provided that they are upto the mark.

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(2) That whenever any regular induction takes place the applicants could be considered alongwith others giving them due weightage to their experience of already having worked in the cadre of Anti Malaria Lascars.

(3) It is expected that respondents will comply with their own recruitment rules and administrative instructions in selection and appointment. Further in the case of the applicants there should be no bar of upperage limit as they have already been working with them. Application is disposed of accordingly with no orders as to cost.


(B.K. SINGH)
M(A)


(J.P. SHARMA)
(MJ)

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