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CENTRAL ADMINISTRATIVE TRIBUNAL PRINCIPAL BENCH

O.A.No.1943/1994

New Delhi: this the 4th November, 1997.

HON'BLE MR.S.R.ADIGE, VICE CHAIRMAN (A)

HON'BLE DR.A.VEDAVALLI MEMBER(J)

Ishwar Chandra, s/o Shri Ramdularey Dubhey,
R/o B.L-4, L Block, Hari Nagar, New Delhi,
Presently working as
Labour, T.No.1561,
Group-Yard, Central Ordnance Depot,
Delhi Cantt.

2. Sh. Sunil Kumar,
S/o Shri Dev Karen,
r/o A-80, Ashok Nagar,
Ghaziabad, UP
Presently working as
Labour, T.No.2512,
3-Sub-depot,
Central Ordnance Depot,
Delhi Cantt.

..... Applicants.

(By Advocate: Shri K.K.Puri)

Versus

Union of India through
Secretary,
Ministry of Defence,
South Block,
New Delhi.

2. Officer-in-Charge,
Army Ordnance Corps Records,
Post Box No.3, Trimulgherry Post,
Secunderabad-500015.
3. Director General of Ordnance Services,
Army Headquarters,
Sought Block,
DHQ PO,
New Delhi-11.

4. Commandant,
Central Ordnance Depot,
Delhi Cantt.

5. Adjutant Generals,
13 Branch, Army HQ,
South Block, DHQ PO,
New Delhi-II

..... Respondents.

(By Advocate: Shri Madhav Panikar)



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JUDGMENT

BY HON'BLE M.R.S.R. ADIGE, VICE CHAIRMAN (A).

Applicants impugn respondents' letter dated 10.6.94 rejecting their claim for appointment as Storekeepers w.e.f. 13.7.92.

2. As per Recruitment Rules (page 13 of OA) posts of Store Keepers are to be filled 10% by promotion, and 90% by transfer failing which by direct recruitment. Applicants' case is that they are eligible to be appointed under 90% OR quota. They state that in accordance with Adj. General's letter dated 17.1.92 ^(Ann I) stating that no surplus staff were at present available to fill up the 2 vacancies of Store Keepers and releasing the two vacancies to Employment Exchange for making direct recruitment, they applied for the posts of Store Keeper on 10.7.92, appeared in the prescribed test on 13.7.92, underwent medical exam. etc. on 5/6.8.92, but despite that they were not issued appointment letters which was illegal and arbitrary.

3. Respondents challenge the OA and state that the tests etc. taken were irregular. They state that the requirement should have been reported to AOC Records being the Controlling establishment of all Centrally Controlled Civilian Categories for filling up the posts on transfer basis as per Recruitment Rules, and the question of direct recruitment would have arisen only if no staff were available through transfer mode. Besides pointing out that the ban on direct recruitment still continued to

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operate, they state that the contention that eligible candidates were not available in the Regional Employment Exchange which compelled the unit officer to restrict the tests only to those working in the unit, was not realistic in these days of high unemployment. It is stated that in case the eligible candidates were not available in Regional Employment Exchange, then the vacancies should have been reported to Surplus Cell.

4. We have heard Shri Puri for applicants and Shri Panikar for respondents.

5. The Recruitment Rules prescribe that the posts of Store Keeper are to be filled 10% by promotion, and 90% by transfer failing which by direct recruitment. Admittedly applicants are claiming appointment under the 90% quota. For that, transfer is the first mode, and it is only if after full efforts are made ¹under transfer mode and none are available, that the question of direct recruitment arises. The letter dated 17.1.92 (Annexure-I) nowhere states that despite full efforts none ²was available through transfer mode and hence direct recruitment ²was being resorted to. Instead, this letter dated 17.1.92 talks of surplus staff not being available, which does not mean that none was available on transfer. That apart the test held was restricted to persons working in the department. Direct recruitment

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implies that members of the general public would be permitted to take the test after wide publicity. There is merit in respondents' contention that it is unrealistic to assume that for a non-technical post such as that of Store Keeper eligible candidates were not available through the Employment Exchange.

6. The grounds taken by respondents are irrefutable. ¹Allowing the OA would mean denying all those who had a legitimate right to appear for the direct recruitment and be considered for appointment. Merely because they are not before us, does not mean we can ignore their legitimate rights and we therefore find ourselves unable to grant the relief prayed for by the applicants. The OA is dismissed. No costs.

A. Vedavalli
(DR. A. VEDAVALLI)
MEMBER(J)

S. R. Adige
(S. R. ADIGE)
VICE CHAIRMAN (A).

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