(8)

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI.

OA No.655/88 Date of decision:25.5.93

Sh.Adhir Kumar Samaddar& anr. Petitioners

versus

Union of India through
Secretary,
Rashtrapati Secretariat,
& ors. ... Respondents

OA No.1254/88
Sh.Hari Das ... Petitioner

vs.

Union of India through
Secretary,
Rashtrapati Secretariat ... Respondents.

CORAM:THE HON'BLE MR.I.K.RASGOTRA,MEMBER(A)

THE HON'BLE MR.J.P.SHARMA,MEMBER(J)

For the Petitioners .... None

For the Respondents .... None.

JUDGEMENT(ORAL)

(BY HON'BLE MR.I.K.RASGOTRA,MEMBER(A))

When the case was called out neither petitioners nor their counsel were present. None was present on behalf of the respondents as well. We also sent for the learned counsel for the petitioners,Sh.Ashish Kalia but he was not found in the Tribunal. We,therefore,proceed to dispose of the cases on merit after going through the record.

As common questions of law and fact are involved in these two OAs, they are being disposed of by a common judgement.

The case of the petitioners is that vide letter dated 4.2.87 they were called for appointment as Peon. The petitioners appeared in the selection test held by a committee constituted by the Rashtrapati Bhawan Secretariat. They were asked to fill up the attestation form and produce

documentary evidence regarding their qualification,registration in the Employment Exchange etc. Their grievance is that their names were placed on the panel but they were not given appointment. By way of relief,it is prayed that the respondents be directed to appoint the applicants as they are on the select list already prepared in accordance with the rules. Further,the respondents be restrained from holding fresh recruitment till the petitioiners are appointed. The main ground for seeking the relief are the instructions contained in OM No.22011/2/79-Estt(D) dated 8.2.82 issued by the Ministry of Home Affairs,Department of Personnel & Administrative Reforms. The relevant portion of the said OM reads as under:-

" ...Normally,recruitment whether from the open market or through a Departmental Competitive Examination should take place only when there are no candidates,available from an ealier list of selected candidates. However, there is a likelihood of vacancies arising in future; in case, names of selected candidates are already available,there should either be no further recruitment till the available selected candidates are absorbed or the declared vacancies for the next examination should take account the number of persons already on the list of selected candidates awaiting appointmen. Thus,there would be no limit on the period of validity of the list of selected candidates prepared to the extent of declared vacancies,either by the method of direct recruitment or through a Departmental Competitive Examination."

The respondents in their counter have explained that in June 1986 a Selection Committee was constituted to empanel suitable candidates for consideration for appointment as Peon in the President Secretariat. There were 16 vacancies. However, a larger panel was drawn according to the usual practice for contingencies. Petitioner No.1 was placed at Sl.No.22 while petitioner No.2 at Sl.No.20 of the panel. The petitioners are therefore, outside the number of vacancies for which the selection was held. It is further stated that the validity of the panel expired in June 1987 by which time only 19 candidates could be appointed. Regarding OM dated 8.2.82 on which the petitioners have placed

(10)

reliance, the respondents have stated that the procedure for recruitment to the posts in the President Secretariat is governed by the President Secretariat(Recruitment and Conditions of Service) Rules,1976(Annexure R-1). The relevant portion is reproduced as under:

> " The Departmental Promotion Committee will meet at annual intervals or as may be directed by the Secretary to the President and draw panels which will be used for making promotions against vacancies arising during the course of a year. The panel drawn up on the recommendation of the committee ,as approved by the Secretary to the President,will normally be valid for one year. In any case, it will cease to be in force on the expiry of the period of one year and six months or when a fresh panel is prepared,whichever is earlier. Promotions will be made in the order in which the candidates are placed in the panel."

It would be seen from the above that there are statutory rules governing the recruitment and promotion in the President Secretariat. The OM on which reliance has been placed by the petitioners is not germane in their cases. The validity of the select list in these cases was for one year and the petitioners, therefore, have no right to appointment merely because they were placed on the panel. In any case, they are outside the number of vacancies for which selection was held.

In view of the above facts, the OAs are devoid of merit and are accordingly dismissed. No costs.

A copy of this order be placed on both the files.

(J.P.Sharma)
Member(J)

25.5.95

(I.K.Rasgotra)
Member(A)