

Central Administrative Tribunal  
Principal Bench, New Delhi.

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OA 2659/2004

New Delhi this the 25<sup>th</sup> day of January, 2006.

Hon'ble Shri Shanker Raju, Member(J)  
Hon'ble Shri N.D. Dayal, Member(A)

Sh. Ashfaq Ahmed,  
S/o late Sh. Mohd. Zaki,  
R/o House No. C-13,  
Netaji Nagar,  
New Delhi-110 023.  
(through Sh. G.D. Bhandari, Advocate)

Versus

Union of India through

.... Applicant

1. The Comptroller & Auditor General of India,  
10, Bahadur Shah Zafar Marg,  
New Delhi.
2. The Sr. Audit Officer(Admn.),  
Office of the Principal  
Accountant General (Audit)-I,  
Andhra Pradesh,  
Hyderabad-500 004.  
( through Sh. Gaurang Kanth, Advocate)

.... Respondents

ORDER

Hon'ble Shri N.D. Dayal, Member(A)

A Notification was published in Employment News dated 28.10.2000/ 03.11.2000 for appointment to the cadre of Group 'D' in the Office of Principal Accountant General (Audit)-I, Andhra Pradesh, Hyderabad. There were 24 posts of Peon and two posts of Watchman approximately that had been notified for being filled up. The reservation to be made and eligibility condition had been indicated therein. Since the applicant belongs to the OBC category and satisfied the eligibility conditions he preferred his application for the posts and was called for interview on 21.8.2001 with necessary documents. Thereafter on 05.3.2003 advance intimation was given informing him that he was likely to be considered for appointment as Group 'D' in due course. He was directed to forward original

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documents as specified therein. It was inter-alia made clear that the letter was not an offer of appointment and did not guarantee the same.

2. The applicant sent all the necessary certificates on 20.3.2003 but received them back without any letter on 28.6.2003. As such he became anxious about the fate of his appointment and took up the matter with the National Commission for Minorities (NCM) as well as CAG of India. The Principal A.G. (Audit)-I, Andhra Pradesh, Hyderabad informed him by letter of 20.11.2003 that the recruitment process had been cancelled due to administrative reasons. The office of CAG of India informed the NCM by letter of 21.7.2004 that:

- "(i) The competent authority had cancelled the said panel after careful examination.
- (ii) The panel was cancelled as many irregularities / deficiencies including improper constitution of the committee and failure to follow Government of India's Orders regarding SC/ST candidates, were noticed.
- (iii) The said panel was prepared to make direct recruitment to 15 posts of Gr. 'D'.
- (iv) None of the candidates was appointed since the panel was cancelled.
- (v) Age relaxation as per the statutory provisions / existing Government of India instructions governing the recruitment will be follows."

3. The applicant has alleged that such action on the part of the respondents smacked of malafide and discrimination and in fact the panel was much less than the number of vacancies notified and there had been no application of relaxed standards for reserved categories and instead local candidates were inducted. As such the reasons for cancellation of <sup>his</sup> selection cannot be sustained and his right to be considered for appointment still survives. He has, therefore, prayed for the following reliefs:

- "(i) set-aside and quash respondents letter dated 2.17.2004, Annexure-A-1B, along with their letter dated 20.11.2003, Annex.A-1, being vitiated, malafide and illegal as humbly submitted in the foregoing paras.
- (ii) direct/command the respondents to operate the panel so prepared by them for the post of Peon and issue letter of appointment to the applicant with all consequential benefits.
- (iii) any other relief deemed fit and proper in the facts and circumstances of the case, may also be granted in addition to the heavy exemplary costs against the respondents and in favour of the applicant, in the interest of justice."

4. The respondents have denied the allegations of the applicant and contested his claim in their counter reply relying upon the following judgments of

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the Hon'ble Supreme Court which have been discussed therein:-

- (i) **Union Territory of Chandigarh Vs. Dilbagh Singh**  
(1993(1) SCC 154)
- (ii) **State of Haryana Vs. Subhash Chander Marwaha and Others**  
(1974(3)SCC 220)
- (iii) **State of MP Vs. Raghuvir Singh Yadav**  
(1994(6) SCC 151)
- (iv) **Union of India & Ors. Vs. Tarun K. Singh and Ors.**  
(2003(11)SCC 768)
- (v) **Shankarsan Dash Vs. U.O.I.**  
(1991)3 SCC 47) and
- (vi) **Dr. Rai Shivendra Bahadur Vs. The Governing Body of the Nalanda College**

They submit that no appointment was communicated to the applicant and mere selection for appointment would not impart an indefeasible right for appointment to the applicant as there is no rule to the contrary in this case. Further, the applicant was not entitled to any opportunity of hearing before cancellation of the selection and ordinarily a Notification for appointment is only an invitation to appear for recruitment and the State is under no legal duty to fill up all the vacancies. So long as the action by the State is not arbitrary and the decision taken is bona fide and for appropriate reasons it cannot be assailed even if a candidate may have legitimate expectation of being appointed owing to his name finding place in the select list. With regard to the cancellation of this selection, the respondents have submitted that one of the candidates had filed OA-688/2003 before the Coordinate Bench of the Tribunal at Hyderabad which was dismissed on 30.9.2004 upholding the cancellation and a Writ Petition had been filed before the High Court of Andhra Pradesh which was pending. However, there is no mention of any interim order having been passed.

5. In the rejoinder, the applicant has reiterated his allegations and clarified that he does not claim that he was issued any appointment letter but he is aggrieved that the selection was cancelled without informing the reasons and no fresh notification was issued. He refers to a judgment of the Hon'ble Supreme Court in **Raj Bahadur Sharma Vs. Union of India** (1998(9)SCC 458) to contend that abrupt decision and unclear denials as in this case cannot be relied upon.



He has further mentioned the case of **Padmasundra Rao & Ors. Vs. State of Tamil Nadu & Ors.** (AIR 2002 SC 1334) to point out that Courts should not place reliance on decisions without discussion as to how the facts fit in with the case under consideration.

6. We have heard the learned counsel for both parties. Shri G.D. Bhandari, learned counsel for the applicant traversed the grounds taken in the application and argued that it was not fair on the part of the respondents to deny appointment to the applicant. He reiterated that the rules with regard to reservation and relaxed standards for reserved category candidates were not adhered to and it should have been possible to identify the cases of those candidates who were not under cloud so that they could have been given appointment instead of canceling the entire selection. Sh. G. Kanth, learned counsel for the respondents placed a copy of the order passed by the Coordinate Bench of Hyderabad from which it is observed that the applicant therein was in similar circumstances and had made the same allegations and taken similar grounds to question her not being appointed to the post of Group-D despite having completed the process of recruitment. The respondents had reacted on the same lines as in the present OA and justified the cancellation of the selection as reflected in the letter of the CAG of India dated 21.7.2004 mentioned above. The Tribunal after taking note of the rival submissions and dealing with them at length came to the conclusion that the Selection Committee was improperly constituted and there were various serious irregularities in the proceedings and therefore upheld the cancellation of the entire selection.

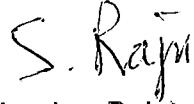
7. It is note worthy that the applicant had filed MA-2077/2005 in the present O.A. for production of the relevant original file of selection by the respondents which was opposed by them since Coordinate Bench at Hyderabad had already perused the original records as evident from the observations in paras 7 and 8 of the judgment in that case. Finding no merit in the MA, it was dismissed by the Tribunal on 7.11.2005.

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8. Having carefully considered the submissions made before us and the material on record we find merit in the stand taken by the respondents on facts and in law and see no reason to differ with the view taken by the Coordinate Bench of the Tribunal at Hyderabad upholding cancellation of the entire selection proceedings. The application is therefore dismissed. No costs.

  
(N.D. Dayal)

Member(A)

  
(Shanker Raju)

Member(J)

/kdr/