

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

O.A. NO.3082/2004

New Delhi, this the 16th day of May, 2005

HON'BLE MR. JUSTICE M.A. KHAN, VICE CHAIRMAN (J)
HON'BLE MR. S.K. MALHOTRA, MEMBER (A)

Chander Prakash Sharma,
S/o Shri K.K. Sharma,
Room No.309, D-I Wing,
Sena Bhawan,
New Delhi
(Applicant in person)

... **Applicant**

Versus

1. Union of India, through
Deputy Secretary (Gp.I),
Formerly the Under Secretary,
D(Establishment-I/Group-I),
Ministry of Defence,
B Wing, Sena Bhawan,
New Delhi

2. Shri R. Kukerkti,
S.O. to Def. Secy, M/o Defence,
South Block, New Delhi

... **Respondents**

(By Advocate : Shri Shamsuddin Khan)

ORDER (Oral)

BY HON'BLE MR. S.K. MALHOTRA, MEMBER (A):

This OA has been filed by the applicant with the prayer to quash the selection proceedings held on 25.5.2004 relating to the selection of a Section Officer to be posted in the Office of the Counsellor (Coord) at Moscow and to select a more suitable candidate for this post.

2. The facts of the case, in brief, are that the applicant had applied for the post of a Section Officer to be posted in the Office of the Counsellor (Coord), Embassy of India, Moscow in response to the Circular issued by the Ministry of Defence. The eligibility criteria were that the applicant should be below the age of 55 years, should not have more than 3 dependent children and should have intimate knowledge of the functioning of the Ministry of Defence including Services Headquarters and good knowledge of defence equipment besides knowledge in finance and accounts. It was also mentioned in the said Circular that the persons having working knowledge of Russian Language and Typing would be preferred (Annexure A/2). The applicant along with other candidates was considered by the Selection Committee. He also appeared for an interview

before the Selection Committee, but was not selected. It is mentioned that according to his information, the Staff Officer to the Defence Secretary was selected for the post. He thereafter submitted a representation to the department, but the same has been rejected stating that his representation is devoid of merit (Annexure A/1). According to the applicant, he fulfils the required qualification and other requirements. As against this, the Staff Officer to the Defence Secretary who has been selected for the post neither has the required experience nor intimate knowledge of the functioning of the Ministry of Defence which were the requirements for the post and as such the selection was arbitrary and unjust.

3 The respondents have filed a counter reply in which they have stated that the selection has been made according to the suitability of the applicants based on specified criteria and had decided on the selection based on overall performance including experience of the candidates. They have denied that an ineligible candidate has been selected for the post. According to them, the selected candidate had worked as a Section Officer in D (QA) Section of the Ministry of Defence from March, 1994 to January, 1998 and was dealing with the work relating to the inspection of stores to be supplied to the Armed Forces and assistance in indigenisation. Having worked in the Office of the Defence Secretary, the selected candidate had also gained intimate knowledge of the functioning of the Ministry of Defence including Services Headquarters. The representation made by the applicant against his non-selection was considered at appropriate level. After taking into consideration all the relevant factors and keeping in view that the Selection Committee had evaluated the candidates based on specific criteria, the representation was rejected.

4. We have heard the applicant in person and the learned counsel for the respondents and have also gone through the pleadings on record.


5. During the course of argument, the applicant emphasized the point that while he was better qualified to hold the post, the candidate who does not possess the required qualification and experience has been selected by the Selection Committee. According to him, the selected candidate did not have the intimate knowledge of functioning of the Ministry of Defence including the Services Headquarters and did not possess the knowledge in Finance and Accounts. This argument was vehemently opposed by the learned counsel for the respondents who stated that the selected candidate had worked in the relevant Section during the period 1994-98 dealing with inspection of stores to be supplied to Armed Forces. Besides, while working as Staff Officer in the Office of the Defence Secretary, he had gained sufficient knowledge about the working of the Ministry of Defence including the Services Headquarters. The selection

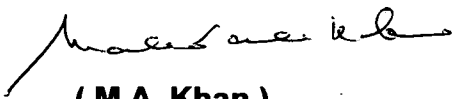
has been made on merit by the Selection Committee based on certain specified criteria which cannot be faulted with. Q

6. After hearing the rival contention of both the sides, we are convinced that no illegality has been committed by the Selection Committee in the selection of the candidate. The selection has been made by the Selection Committee based on certain criteria adopted by it. We do not find any justifiable ground to interfere in the matter. The applicant had the right for consideration and has no legal right for selection. He was considered along with other candidates but was not found suitable, compared to other candidates. It is a well settled principle of law that the Tribunal cannot be expected to play the role of an Appellate Authority or umpire in the acts and proceedings of the DPC, and it cannot sit in judgement over the selections made by the DPC unless the selection is assailed as being vitiated by mala fides or on the ground of being arbitrary. On this aspect of the matter, we are relying on the judgement of the Hon'ble Supreme Court in the case of **Anil Katiyal (Mrs.) v. Union of India**, 1997 (2) SCT 157 (SC). In another case of **D.A. Solunki v. Dr. B.S. Mahajan**, AIR 1990 SC 434, it was held that whether a candidate is fit for a particular post or not has to be decided by the duly constituted Selection Committee which has the expertise on the subject. The Court has no such expertise. The decision of the Selection Committee can be interfered with only on limited grounds such as illegality or patent material irregularity in the constitution of the Committee or its procedure vitiating the selection etc. No such illegality has been pointed out in the instant case. We do not, therefore, find any justifiable ground to interfere.

7. Taking into consideration the above facts, we do not find any merit in the OA and the same is dismissed.

No order as to costs.


(S.K. Malhotra)
Member (A)


(M.A. Khan)
Vice-Chairman (J)

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