

# IN THE CENTRAL ADMINISTRATIVE TRIBUNAL NEW DELHI

OA-1986/93

DATE OF DECISION 10.9.93Sh. Jitendra KumarPetitionerSh. S.C. LuthuraAdvocate for the Petitioner(s)**Versus**U.O.I. & Ors through Secretary  
Ministry of DefenceRespondentNoneAdvocate for the Respondent(s)**CORAM****The Hon'ble Mr. I.K. Rasgotra, Member(A)****The Hon'ble Mr. B.S. Hegde, Member(JD)**

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgement ?
4. Whether it needs to be circulated to other Benches of the Tribunal ?

JUDGEMENT (ORAL)

(delivered by Sh. I.K. Rasgotra, Member(A))

We have heard Sh. S.C. Luthura, counsel for the petitioner. The case of the petitioner is that he appeared in the test for the post of Tool Maker as advertised in the 'Central Employment Exchange (Spl. Drive for SC/ST candidates) copy placed at annexure-2) vide special advertisement No. 7/89. He was not issued offer of appointment even after he had completed all the formalities as required vide their letter dated 18.9.90.

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2. The petitioner submitted a representation on 26.12.91 to the Directorate General, EME and another are to the Defence Minister on 9.10.91. The representation addressed to Defence Minister was replied to by the Respondents on 5.12.91. The said letter stated as follows:-

" Refer to your petition dated 9 Oct 91 addressed to the Defence Minister and copy endorsed to this H.Q.

Your case has been examined. You could not be offered appointment as there was no vacancy existing in the trade of Tool Maker in 506 Army Base Workshop. The selection process was taken up due to an error, in that the existing vacancy in the unit is of Armament Mechanic Trade, whereas the vacancy released by cadre controlling authority i.e. EME Records Secunderabad is that of Tool Maker. The error was detected during the final scrutiny. Hence, the test in which you appeared was not in order".

3. Learned counsel for the petitioner submitted that respondents cannot, take the stand that there is no vacancy when they had advertised two vacancies one of whom was reserved for S.C.candidates. The petitioner had qualified for the post in all respects. Even if there is one vacancy, the petitioner would have claim for being considered against the said post as a single vacancy cannot be reserved.

The petitioner has also filed MP for condonation of delay. The reason given for seeking condonation of delay is that limitation starts from 5.12.91, the date on which his representation addressed to the

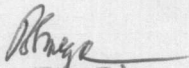
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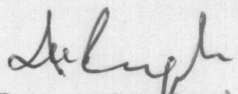


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Defence Minister was replied, and further that the delay on the part of the petitioner was unintentional.

4. We have considered the submission made by the learned counsel for the petitioner and perused the record carefully. We are of the opinion that there is no justification given for condonation of delay does not merit consideration. Secondly the respondents have given well reasoned answer to the petitioner vide letter dated 5.12.91. If they make a mistake, they cannot be faulted for rectifying the said mistake. In the facts and circumstances of the case we do not find any merit for interfere in the case. OA is accordingly dismissed at the admission stage. No costs.

  
(B.S. HEGDE)  
MEMBER(J)

  
(I.K. RASGOTRA)  
MEMBER(A)

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