

IN, THE CENTRAL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH NEW DELHI

O.A. No. 2586/93

New Delhi, dated the 9th September, 1994

CORAM

Hon'ble Shri B.N. Dhoundiyal, Member(Administration)

Hon'ble Smt. Lakshmi Swaminathan, Member(Judicial)

Shri Suresh Kumar Ruhil
R/o H.No. 89, P.O. Rani Khera,
Madanpur Debas, Delhi-110081

...Applicant

(By Advocate Shri S.S. Tiwari)

v/s

1. Union of India through Secy.
Ministry of Defence, South Block, New Delhi
2. Engineer-in-Chief
E-in-C's Branch
Kashmir House, BHQ. PO, New Delhi
3. The Chief Engineer, Western Command,
Chandni Mandir.
4. Chief Engineer, Delhi Zone,
Delhi Cantt-110010

...Respondents

(By Advocate Shri V.S.R. Krishna)

JUDGMENT (ORAL)

[Hon'ble Shri B.N. Dhoundiyal, Member(A)]

Admitted facts of the case are that on 31.10.91 (Ann B), Headquarters Chief Engineer (Delhi Zone) Delhi Cantt. had sent a requisition to the Regional Employment Exchange, Pusa for recruitment of reserved 17 Surveyor Assistant, Grade-II; 10 vacancies/ for General candidates, 2 for Ex Serviceman, 3 for Scheduled Castes, 2 for Sch. Tribes. Written tests were held on 16.2.1992 and the applicant was interviewed

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on 27.2.1992. "A" merit list was prepared and that the applicant was placed at sl.No.12 in the select list of General candidates. However, L.R.S. of the said category was reduced to 10 numbers instead of 17 numbers by the Chief Engineer(Western Command) Chandimandir vide their letter dated 16.6.1992(Ann.R-3). Out of these 10 posts ¹ _{NAO} reserved for Sch.castes, 2 for Sch.Tribes and 1 for Ex. serviceman and 6 for General candidates. The name of the applicant neither finds place in the select list nor in the reserve list.

2. The applicant is aggrieved that his name is not being considered for the vacancies which still exist, even though, he is a duly selected candidate. He refers to O.M. No. dated 8.2.1992 of the Ministry of Home Affairs (Department of Personnel and Training) which deals with the cases where the declared number of vacancies are filled up through Direct Recruitment or the Departmental Competitive Examination. As regards fluctuation in the vacancies after the list of selected candidates is announced, the said memo, inter-alia states

"Once a person is declared successful according to the merit list of selected candidates, which is based on the declared number of vacancies, the appointing authority has the responsibility to appoint him even if the number of vacancies undergoes a change after his name has been included in the list of selected candidates. Thus, where selected candidates are awaiting appointment, recruitment should either be postponed till all the selected candidates are accommodated or alternately in take for the next recruitment reduced by the number of candidates already awaiting appointment and the candidates awaiting appointment should be given appointment first, before starting appointments from a fresh list from a subsequent recruitment or examination."

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3. Learned counsel for the respondents has pointed out that before the list was approved, the numbers of vacancies was reduced and hence the select list was prepared for 10 vacancies out of which only 6 were earmarked for the general candidates. Against these general vacancies a select list of 6 and a reserve list of 3 was approved by the Chief Engineer, Delhi Zone. The applicant being at serial No.12 in the merit could not make it either to the select list or the reserve list.

4. Learned counsel for the applicant has drawn our attention to letter dated 5.6.93 (Ann. D) addressed to the E-in-C's Branch Army Headquarters, New Delhi-11 by the Addl. Chief Engineer, O/O the Headquarters Chief Engineer (O.Z) Delhi Cantt. It appears that some of the candidates who were included in the panel did not join and even with reduced number of vacancies. 4 vacancies were still shown in the category of Surveyor Assistant, Grade-II. In terms of above mentioned O.M. dated 8.2.1982, those in the merit list have a right to be considered till the number of vacancies declared at the time of the selection are filled up.

5. We dispose of this O.A. with a direction to the respondents to re-assess the vacancies available with them. After exhausting the select and reserve lists if some vacancies still remain, these shall be filled up by strictly following the merit list in terms of O.M. dated 8.2.1982.

6. No costs.

Lakshmi Swaminathan
(Lakshmi Swaminathan)
Member (C)

B.N. Dholayal
(B.N. Dholayal)
Member (A)