

Open Court.

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH,

ALLAHABAD.

....

Original Application No. 1440 of 1998

this the 15th day of January 2004.

HON'BLE MR. V.K. MAJOTRA, V.C.

HON'BLE MRS. MEERA CHHIBBER, MEMBER(J)

Suaib Hasan Ansari, S/o late Sri Hamid Hussain Ansari,  
aged about 37 years, R/o 78-A Sadibad, P.O. Teliarganj,  
Allahabad.

Applicant.

By Advocate : Sri H.S. Srivastava.

Versus.

1. Union of India through Secretary, Ministry of Defence,  
New Delhi.
2. The Director General of Ordnance Services, MGO Branch,  
Army Headquarters, HQ Post Office, New Delhi.
3. The Commandant, 508 Army Base Workshop Fort, Allahabad.

Respondents.

By Advocate : Sri Amit Sthalekar.

ORDER

PER MRS. MEERA CHHIBBER, MEMBER(J)

By this O.A., applicant has sought the following  
relief (s) :

"(i) to issue orders/directions to respondents to review  
the case of the applicant and declare him success-  
ful in the test held for promotion to the post of  
Turner High Skilled Gr.II and give him his seniority  
over his juniors.

(ii) -----.

(iii)-----."

2. It is submitted by the applicant that he was initially  
appointed as Turner Mate on 21.5.1984 (Annexure A-1).  
Thereafter he passed the departmental test and was promoted  
to the post of Turner in the pay-scale of Rs.950-1500 in  
May'87.

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3. Vide daily order Part-I dated 21.8.1987 applications were invited for appearing in trade test for promotion to the post of Turner High Skilled Gr.II to be held from 20.11.1997 to 22.11.1997 (Annexure A-2). Since the applicant was eligible, he applied and appeared in the written as well as practical examination and passed the same. Even in the interview Board was fully satisfied with his answers, yet when the list of successful candidates was published on 3.3.1998 (page 18), his name did not figure therein. However, thereafter another result was issued on 24.3.1998 (page 21) wherein again applicant's name did not figure. Thereafter, yet another result was published vide daily order dated 15.4.1998 whereby some candidates who had failed earlier, were shown as passed (Annexure A-5). Counsel for the applicant submitted that there was lot of manipulation and bungling in preparation of the result and lot of money <sup>had</sup> were exchanged to show the candidates as successful. Even the applicant was approached to grease the palm of the concerned officials, but since he was poor and honest employee and <sup>had</sup> done the test very well, he did not pay any money. He has further submitted that perusal of the various results would show that each time number of candidates were increased, therefore, it is a case of arbitrariness and is violative of principles of natural justice as it is not a fair test. He has, thus, prayed that he may be given the relief as prayed by him.

4. The respondents, on the other hand, have submitted that can nobody/claim promotion as a matter of right. Applicant's name was not included in the result as he was failed in the trade test, which was conducted by the duly constituted by the Board of Officers. There were 12 vacancies of the Turner Highly Skilled Gr.II was existing in March' 98 for which the trade test was conducted. The result of successful candidates was submitted and after approval it was issued on 3.3.98. However, subsequently another daily order dated 24.3.98 was published showing the complete result giving

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the details of all the candidates who had appeared in the Trade test whether they had passed or failed. However, thereafter on scrutiny of the complete results declared, it was revealed that 8 candidates were erroneously declared unsuccessful, therefore daily order part I dated 15.4.98 was issued giving only the amendments required. Since the applicant had failed, he has no right to claim promotion. They have further submitted that the applicant was afforded opportunity and was interviewed by the Commandant & M.D. and on his request, he was shown the result sheet prepared by the Board of Officers. They have denied that any money have been exchanged for passing the candidates as alleged by the applicant. In any case, the allegations made are vague and need to be dismissed. They have, thus, submitted that there is no merit in the O.A., therefore, this may be dismissed.

5. In Rejoinder, the applicant has reiterated his stand and has submitted that there were 13 vacancies of Turner Highly Skilled Gr.II, but the result was declared for 14 candidates, which was subsequently increased to 21. However, out of 22 candidates declared successful, only 13 candidates have been promoted to the post of Turner Highly Skilled Gr.II sofar. He has prayed that the respondents be directed to produce the records.

6. We have heard both the counsel and perused the pleadings as well as original records produced by the respondents. An officer appearing on behalf of the respondents explained that final result was prepared for the post of Turner Highly Skilled Gr.II as per the marks obtained by each candidates and as per decision taken by the Commandant & M.D. on the request made by certain candidates it was directed to give to available concession to SC/ST candidates and to see whether the candidates who had been passed in written, practical and oral test, but falling short in total by 10

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marks or less have been given grace of maximum 10 marks or not. On the basis of this, that result was prepared by giving grace/marks upto 10 to those who had otherwise passed and the last minimum marks obtained by those candidates who have been declared passed was 125. He explained that none of the candidates was passed who had got less than 125 marks, whereas applicant had received only 88 marks and even if he was to be given grace marks of 10, still he does not come within the minimum marks namely 125. He further explained that out of this list wherein 22 Turners were declared passed only 13 persons were to be given promotion and rest were to be kept in the wait list, ought to be promoted as and when vacancy becomes available. We have seen the final result prepared by the respondents, which clearly shows that all those persons who had received less than 125 marks have been declared as failed. More-over, since the applicant has scored only 88 marks even if he was to be given the benefit of 10 grace marks, he would still not be reaching within the cut off marks namely 125. Since the applicant has not been able to get the cut off marks, he cannot get the promotion as a matter of right. As far as the applicant's allegations that there was lot of bungling of money while preparing the result is concerned, the applicant has neither given the names of the officers who had demanded the money or who was required to be paid the money nor he has impleaded any officer by name. The law on this point is well settled by now that if such serious kind of allegations are to be made atleast the person against whom such allegations are made should be impleaded as a party by name so that he is in a position to respond to the same. In any case, vague and bald allegations are to be ignored. Therefore, this contention is rejected. Since, we have satisfied ourselves that the applicant had failed in the trade test, he cannot be granted the relief as claimed by him. Accordingly, the O.A. is dismissed with no order as to costs.

Member (J)

V.K. Majhi  
Vice-Chairman  
15.01.04