

Reserved

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD.

Dated : This the 28th day of May 2003.

Hon'ble Maj Gen K.K. Srivastava, Member-A.

Original Application no. 656 of 2001.

1. Mahendra Singh, s/o Shree Bhan Singh,
R/o Vill and Post Puramufti,
ALLAHABAD.
2. Gulab Chand, s/o Sri Jageshwar Lal,
R/o Village and Post Sarafpur, Post Mauauri,
ALLAHABAD.
3. Har Jeevan Lal, s/o late Sri Ram Prasad,
R/o Vill and Post Mathpur Post Manauri,
Distt. ALLAHABAD.
4. Raj Bahadur, s/o Sri Bihari Lal,
R/o Vill Golkaiyapur Post Saiyad Sarawan,
KAUSHAMBI.

... Applicants

By Adv : Sri L.K. Dwivedi

Versus

1. Union of India through Secretary Defence,
NEW DELHI.
2. Chief of the Air Staff, Air Headquarters,
NEW DELHI.
3. A.O. C.I.N.C. maintenance Command
Command House, 42/2 Nagpur, (Maharashtra).
4. Officer Commanding, 24 F.D.A.F. Manauri,
ALLAHABAD.

... Respondents

By Adv : Sri G Prakash

Alongwith

Original Application no. 915 of 2001.

1. Vijay Kumar, s/o Sri Pale, R/o Vill & Post Hardua,
TPS Karchana Distt. Allahabad.
2. Rajendra Kumar, s/o Sri Hari Lal,

... 2/-

R/o 36 Talab Newal Rai, Naya Bairahana,
Allahabad.

3. Parmesh Chand, s/o Sri Ram Swaroop Prajapati,
R/o Vill & Post Puramufti, P.S. Puramufti,
Distt. Kaushambi.

... Applicants

By Adv : Sri S Singh

Versus

1. Union of India, through the Secretary, Ministry of Defence, (AIR WING), New Delhi.
2. The AIR OFFICER COMMANDING-IN-CHARGE, Nagpur MAINTENANCE COMMAND, Nagpur.
3. AIR OFFICER COMMANDING, 24, Equipment Depot, Manauri. ALLAHABAD.

... Respondents

By Adv : Sri Gyan Prakash

O R D E R

Hon'ble Maj Gen K.K. Srivastava, Member-A.

In both the OAs, filed under section 19 of the A.T. Act, 1985, the facts and the reliefs claimed are similar, both the OAs are being decided by a common order.

2. In OA 656 of 2001, the applicants have prayed for direction to the respondents to consider and appoint the applicants as Anti Malaria Luscar in the office of respondent no. 4 keeping the seniority in view of the selection made earlier.

3. The facts of the case, in short, are that during 1991 the respondents initiated proceedings for selection of the seasonal Anti Malaria Luscar at Allahabad and called for the names from Employment Exchange. The Employment Exchange forwarded the names. The applicants faced the interview

....3/-

and they were selected by the selection committee. The names of the applicants were recommended alongwith other candidates. Police verification was also conducted. ^{In} ~~earlier~~ In the year 1990 ~~Eight~~ persons were duly selected for the post of Anti Malaria Luscar. They joined and started working from July to December being seasonal employees. These eight candidates, who were 1990 selectees were continued on the Court's order and, therefore, the applicants engagement was stayed and the authorities ensured that they would be called lateron. As per applicants, during 2000 a signal was sent by respondent no. 3 to respondent no. 4 directing that while engaging the individuals as Anti Malaria Luscar, candidates shall be called from selected individuals from 1990 onwards and the seniority list be maintained for the prupose.

4. Learned counsel for the applicant, sri L.K. Dwivedi, submitted that the seniority list should be prepared as directed, ^{through} ~~theretore~~, the signal which has been annexed as annexure 5 and names of the applicants should be placed after the candidates who were selected during 1990. Learned counsel for the applicant further submitted that an assurance to this effect by the authorities that the applicants shall be engaged on their turn should be complied with and the applicants being 1991 selectees should be placed at the appropriate place in the seniority list for engagement as Anti Malaria Luscar.

5. Resisting the claim of the applicants, Sri G. Prakash learned counsel for the respondents, submitted that the applicants have no claim and the OA is not maintainable due to delay and latches. The applicants were selected in 1991, but were not appointed even for a single day. As per order of this Tribunal dated 20.7.2001 passed in OA no. 846 of 2001

the respondents are required to maintain seniority list in which the notional seniority is to be given to those who have already worked. The applicants never worked in the respondents establishment nor they were issued any appointment letter. Therefore, they have no claim and their claim is barred by limitation as they have filed this OA only on 16.5.2001 i.e., after a lapse of almost 10 years.

6. We have heard learned counsel for the parties considered their submissions and perused records.

7. The facts as they emerge out from the perusal of records are that the respondents selected **eight** candidates in 1990 who were appointed and worked in the respondents establishment as Anti Malaria Luscar. A fresh selection was ordered during 1991 and the selection committee issued a list on 25.9.1999 consisting of 15 names. The list of such candidates given by respondents counsel has been placed on record. The respondents again made selection during 1995 and prepared a panel of 8 persons. A similar exercise was undertaken by them in the year 2000. On perusal of record I find that the applicants of OA no. 656 of 2001 namely Sri Mahendra Singh, Sri Gulab Chand, Sri Har Jeevan Lal and Sri Raj Bahadur had been placed at sl no. 9, 12, 13 & 14 respectively of the select panel dated 25.9.1991. These candidates were kept as standby. However, they never ^{were} got chance to work in the respondents establishment.

8. I find substance in the submission of learned counsel for the respondents that on the basis of inter-departmental communication, no legal right in respect of the applicants is established. The applicants besides being in the waiting

list of the list dated 25.9.1991 did not agitate the matter within the period of limitation nor did they challenge the selection of 1995 followed by the appointment of the candidates selected. Therefore, I do not find any good ground for interference. The OA no. 656 of 2001 is liable to be dismissed and the same is accordingly dismissed.

9. In OA no. 915 of 2001 the applicants are 1995 selectees and are ~~start~~ to have worked in the respondents establishment as Anti Malaria Luscar. The controversy as to how should the respondents engage the people as Anti Malaria Luscar has been set ~~at~~ finally by the order of this Tribunal dated 20.7.2001 passed in OA no. 846 of 2001, wherein the following orders has been passed:-

".....This controversy has already been examined by this bench in OA no. 635/01 and OA 736/01. the relief has been granted with the following direction in OA 736/01

"Considering the facts and circumstances of the case, the OA is disposed of with the direction to the respondent no. 3 to consider the case of the applicant for appointment on the post of Anti Malaria Laskar on casual basis for the year 2001 on preferential basis if he has been selected in the earlier selection in the year 2000. Necessary orders in this regard be passed within a period of two months from the date of communication of this order."

In my opinion the applicant is entitled for the same relief with only addition that his claim shall be considered on preferential basis against the new entrants but not against those having notional seniority and senior to him."

6.

10. I am in respectful agreement with the above direction and dispose of OA no. 915 of 2001 on the same terms and condition as mentioned above.

11. For the reasons stated above OA no. 656 of 2001 is dismissed and OA 915 is disposed of.

12. There shall be no order as to costs.

MR.