

RESERVED

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD.

Dated : This the 3rd day of June 2003.

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

Original Application no. 1192 of 2001.

Lakhan Singh, S/o Sri Siya Ram, Singh,
R/o Village Simraha, Post Office Bhattagaon,
Distt. Jhansi.

... Applicant

By Adv : Sri S.K. Chaturvedi

Versus

1. Union of India through Director General, Medical Services, Army Headquarters, DGMS, 3-B1, New Delhi.
2. Selection Board through Commanding Officer, Military Hospital, Jhansi.
3. Deputy Director, Medical Services, (M.P.) (B&O Area), Jabalpur, M.P..
4. Fariduddin, S/o Zahruddin (Bhisti OBC), R/o Sadar Bazar, Behind Police Station, Sadar Bazar, Jhansi.

... Respondents

By Adv : Sri N.C. Tripathi ^{and} Smt. Mamta Devi ^{and} Smt. S.K. Dowe

ALONGWITH

Original Application no. 1193 of 2001.

Smt. Mamta Devi, W/o Lakhan Singh,
R/o Village Simraha, post office, Bhattagaon,
Distt. Jhansi.

... Applicant

By Adv : Sri S.K. Chaturvedi

V E R S U S

1. Union of India through Director General, Medical Services, Army Headquarters, DGMS, 3-B1, New Delhi.
2. Selection Board through Commanding Officer, Military Hospital, Jhansi.
3. Deputy Director, Medical Services, Central Command, Lucknow.
4. Deputy Director, Medical Services, (MP) (B&A Area), Jabalput, MP.
5. Smt. Bandna, W/o Preetam Singh Kori (SC), R/o Vill Hasari Ki Taparia, Post Office Hasari, Distt. Jhansi.

.... Respondents

By Adv : Sri N.C. Tripathi

O R D E R

Hon'ble Maj Gen K.K. Srivastava, MemberA.

Since in both the OAs, filed under section 19 of the A.T. Act, 1985, the selections made pursuant to notification published in Danik Jagaran dated 8.8.2001 have been challenged, both the OAs are decided by a common order. The leading OA being OA no. 1192 of 2001.

OA no. 1192 of 2001

2. In this OA the applicant has prayed for the following reliefs :-

- a. To quash the selection dated 24.8.2001 in which respondent no. 5 has been selected by the Board and headed by the respondent no. 2 for the employment at Military Hospital Jhansi.
- b. To direct the respondent no. 2 to consider and give appointment/employment to the applicant with full wages from the date of employment of respondent no.5

or to any other and further relief which this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the case.

3. The facts of the case, in short, are that a notification appeared in Dainik Jagaran Daily dated 8.8.2001 for appointment of one post each from general category as Washerman, Gardener, Labourer, two posts from general category as Ward Assistant, one post of Cook and one post of Chaukidar from OBC candidate in Military Hospital, Jhansi. Applicant applied for the post of Mazdoor, appeared before the respondents for interview. Interview was held on 25.8.2001, but the applicant was informed that respondent no. 5 who belongs to OBC was selected. Hence, this OA, which has been contested by the respondents by filing counter affidavit.

4. The applicant has alleged that the respondent no. 2 had already decided to appoint respondent no. 5 before the interview took place on 25.8.2001. As per applicant respondent no. 5 belongs to OBC category and he could not be selected as the post was meant for general category as per notification. Besides respondents did not issue call letter and when he came to know of the selection through his father who is employed in Military Hospital, Jhansi, he approached the Board of Officers with all testimonials, proof of age. But the applicant has been denied his right-ful claim though he is fully eligible for the post of Mazdoor. The action of the respondents is arbitrary, discriminatory and illegal.

54. Resisting the claim of the applicant, the learned counsel for the respondents submitted that the interview for the post of Mazdoor took place on 24.8.2001 and not on 25.8.2001. The post was unreserved and person of any community could

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participate in selection. There is no bar for SC/ST candidates to apply for selection against an unreserved post. The applicant did not appear for the interview on scheduled date i.e. 24.8.2001.

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

7. The main ground on which the applicant has challenged the selection of respondent no. 5 is that respondent no. 5 belongs to OBC category and could not be selected against an unreserved post. The contention of the applicant is misconceived. The legal position is well settled that when a post is unreserved, person of any category can participate in the selection. There is no bar whatsoever for SC/ST and OBC candidates that they cannot apply for a post which has been declared as unreserved.

8. The applicant, in para 4.vi, has himself admitted that he appeared for the interview on 25.8.2001. It is clear from the perusal of the notification published on 8.8.2001 (Ann A1) that the date for interview for the post of Mazdoor was fixed on 24.8.2001 and therefore since he failed to participate in the interview on the scheduled date, he has no claim. He was rightly informed on 25.8.2001 about the selection of respondent no. 5 as averred in para 4.vi. We would also like to observe here that once the date of interview was already fixed and published in the notification there was no requirement of issuing call letters for interview. The pleading advanced by the applicant in this regard in para 4.xi of the OA has no substance.

9. For the aforesaid OA no. 1192 of 2001 is devoid of merits

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and is liable to be dismissed. OA is accordingly dismissed.

10. As regards OA 1193 of 2001 the applicant applied for the post ^{Ward} ~~Sahayika~~. She appeared for the interview on 25.8.2001 and was not recommended by the Selection Board for appointment. The applicant's grievance is that respondent no. 5 belongs to reserved category and she could not ^{be} recommended for appointment as Ward ~~Sahayika~~.

11. The applicant has challenged the selection of respondent no. 5 on sole ground that respondent no. 5 belongs to reserved category and could not participate in the selection. The contention of the applicant is misconceived as observed by us in para 4 of this order. On perusal of records we are of the view that there has been positive act of selection. The Selection Board interviewed the candidates on scheduled date i.e. 25.8.2001 and then recommended the name of respondent no. 5 for appointment on the post of Ward Sahayika. Under the circumstances we do not find any good ground for interference. The respondents have committed no error of law.

12. In view of aforesaid we do not find any merit in the case. The OA no. 1193 of 2001 is dismissed being devoid of merit.

13. Both the OAs i.e. OA no. 1192 of 2001 and OA no. 1193 of 2001 stand dismissed with no order as to costs.


Member-J


Member-A

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