

RESERVED

**CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH
ALLAHABAD**

This is the 11th day of August 2021

ORIGINAL APPLICATION NO. 330/00506 of 2019

**HON'BLE MRS. JUSTICE VIJAY LAKSHMI, MEMBER (J)
HON'BLE MR. TARUN SHRIDHAR, MEMBER (A)**

Ankit Singh 26 years, S/o Rajendra Singh R/o Plot No. 146, Greater Kailash Jajmau, District Kanpur U.P 208010.

.....Applicant.

Advocates for the Applicant : Mr. S.K. Singh/Shri V.K. Singh

VERSUS

1. Union of India through Secretary, Ministry of Defence, (Dept. of Defence Production), New Delhi.
2. Director General, Ordnance Factory Board, 10-A S.K. Bose Road, Kolkata 700001.
3. Principal Director, Ordnance Factory Recruitment Center Ambajhari, Nagpur 440021.
4. Union Public Service Commission, New Delhi through its Secretary.

.....Respondents

Advocate for the Respondents : Shri K.D Mishra/Shri R.K. Rai

ORDER
DELIVERED BY HON'BLE MR. TARUN SHRIDHAR, MEMBER (A)

The applicant had applied for the post of Junior Works Manager (Metallurgical) in the Ordnance Factory Board in response to an advertisement issued by Union Public Service Commission (UPSC). The applicant at the conclusion of the selection process, though not selected, was kept in the panel of reserved candidates. This panel was expected to

be operated in order of merit in the eventuality of the selected candidates not joining. The applicant claims that out of six vacancies in the general category, only two have been filled up through the candidates selected on merits, the other four still being vacant. He seeks a direction to the respondents to fill these vacant positions through the candidates kept in the reserved panel, which would amount to his appointment to the position of Junior Works Manager (Metallurgical). For great clarity, the relief portion of this OA is reproduced below:-

- “(a) To issue an order or direction to the respondents to issue appointment letter in favour of the applicant for the post of Junior Works Manager (Metallurgical) in Ordinance Factory Board, Ministry of Defence, Department of Defence Production and permit his joining, as a consequence of the declaration of the result for the said post and recommendations made by the Commission, pursuant to the advertisement No. 12/2016 issued by Union Public Service Commission.*
- (b) To issue any order or direction, which this Hon’ble Tribunal may deem fit and proper under the circumstances of the case.*
- (c) To award cost to the applicant”.*

2. Learned counsel for the applicant argues that the respondents are obliged to issue letter of appointment to the candidates in the reserved panel since even after a lapse of sufficient time, the selected candidates have not joined and the posts are still lying vacant. He points out that the instructions governing the subject are clear that the reserved panel shall remain alive and active for a period of 18 months and it would be further extended upto 2 years in exceptional circumstances. Since a period of more than 15 months had lapsed, he claims that the applicant is a rightful claimant for the vacant position. He invokes the principles of natural justice and fundamental rights to lend greater credence to his case by

arguing that the applicant having been kept in the reserved panel cannot now be denied the appointment, which is his rightful due.

3. The learned counsel for UPSC argues that the role of the UPSC is limited to examining the candidates, evaluating their merits and making appropriate recommendation to the concerned Government department. In the instant case, no request or requisition has been received from the Ordnance Factory Board for recommending them the name of the candidates kept in the reserved panel. Hence, UPSC has no responsibility in this case.

4. Learned counsel for the respondent Nos. 1 to 3 i.e. the Union of India and Ordnance Factory Board categorically argues that there cannot be any direction to or compulsion for the respondents to make appointment to the vacancies. He also points out that merely finding a place in the list of candidates recommended for appointment does not confer a right to be appointed, and in this case the applicant is not one of the recommended candidates but only a reserved candidate. To substantiate this argument, learned counsel relies upon the Hon'ble Supreme Court's judgment in Civil Appeal No. 6707 of 2013, and states that at the moment, sufficient numbers of vacancies are not available to consider the request of the applicant and further it is purely the discretion of the respondents as to how many number of positions they would like to be filled up.

5. Learned counsel for the applicant contests this argument by referring to the Hon'ble Supreme Court's judgment which states that

once selection process is set in motion, the candidates recommended or placed in the reserved list, have a reasonable expectation to be appointed and such expectation cannot be belied at a later stage.

6. Having heard the learned counsel for the parties, we find that the applicant was not in the initial list of the selected candidates and only figured at serial No. 3 in the list of reserved panel. Even if the respondents were to make the use of this reserved panel, the candidates above him in the merit list would have the first right. Moreover, we do not feel that there is sufficient justification for us to issue a direction to the respondents to fill a vacant post. Applicant is not aggrieved by the recruitment or selection process. In fact he is obviously satisfied with the selection process which has placed him in the reserved panel. Whether to fill a vacant post or not, is a decision to be based on administrative requirements and exigencies and not merely on the basis of any expectation of the candidates, who appeared for the selection to the positions. Moreover, the respondents have also categorically stated that they do not have any vacant position, which they intend to fill or which could be offered to the applicant.

7. Therefore, we find the Original Application to be devoid of any merits, hence it is dismissed. No order as to costs.

(TARUN SHRIDHAR)
Member (A)

(JUSTICE VIJAY LAKSHMI)
Member (J)

Manish/-