

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH,  
ALLAHABAD.

Dated: Allahabad, the 15th day of December, 2000

Coram: Hon'ble Mr. S. Dayal, A.M.

Hon'ble Mr. Rafiq Uddin, J.M.

Original Application No. 1334 of 1993

Aley Yaseen, CH D2152,  
Mazdoor, Stock Taking Branch,  
C.O.D. Chheeki, Allahabad,  
son of Mohd. Haroon,  
r/o Village and Post Dandupur,  
District Allahabad.

( By Advocate Sri Arvind Kumar)

. . . . . Applicant

Versus

1. Union of India, through the Director General  
Ordnance Branch, Army Headquarters,  
New Delhi- 110 011.
2. The Officer-in-charge, A.O.C. Records,  
Secunderabad.
3. Commandant, C.O.D. Chheeki,  
Allahabad.

(By Advocate Sri Ashok Mohiley)

. . . . . Respondents.

ORDER (Open Court)

( By Hon'ble Mr. S. Dayal, A.M. )

The case of the applicant is that 7 vacancies  
were released for recruitment of Store-keepers, and  
the vacancies were to be filled up from amongst the  
candidates sponsored from the Employment Exchange

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and from the Depot employees belonging to Group 'D' who were desirous of employment as Store-keeper and fulfilled the qualifications, mentioned in the letter dated 23.8.1984 issued by the Respondent No.3. The applicant applied in response to this notice for the recruitment of Store-keeper as a Group 'D' employee of the Respondents. He was placed on the panel framed on 29.9.1984 along with two other candidates, who were departmental employees and four other candidates who were sponsored by the Employment Exchange. The applicant was not appointed, because of the ban imposed by the Government of India against the filling up of any vacancy. The applicant's claim is that the ban on recruitment of Store-keeper was lifted and the Respondent no.3 sent a proposal to Respondent No.2 for giving appointment to the applicant as Store-keeper, which was rejected by the Respondent no.2 by a letter dated 13th July, 1991. It is contended that the vacancy is still existing and the panel framed in 1984 was still existent. The relief has been asked for in the light of the above facts.

2. We have heard Sri Arvind Kumar for the applicant and Sri Ashok Mohiley for the Respondents.

3. The learned counsel for the applicant contended that a common panel was framed for 7 vacancies released by the Respondent no.2 in 1984 from amongst the candidates sponsored by the Employment Exchange as well as Group 'D' employees, who were eligible and had applied for the recruitment for the post of Store-keeper. The name of the applicant was at Sl.No.1 in the aforesaid panel

dated 29.9.1984. The applicant was not appointed initially, because of the ban on filling up of posts and subsequently, the Respondent no.2 took a stand that the departmental candidates were not entitled to appear in the said Examination for recruitment for the post of Store-keepers along with candidates sponsored by the Employment Exchange on account of Army Headquarters' letter No.B/11162/OS-8C(II) dated 8th May, 1988. The ban initially imposed by the Respondents was relaxed later on, and in the second round, the applicant not belonging to the category of the candidates sponsored by the Employment Exchange was not allowed, because the panel was framed in 1984 while the order of Army Headquarters by the letter No.B/11162/OS-8C(II) dated 8th May, 1988 <sup>↓</sup> could only have been applied prospectively. He has also filed daily order dated 9.10.1993 along with his Rejoinder Affidavit, in which 3 candidates, namely, Sri Raj Narain, Sri Gulab Chand and Sri Deota Din, who were placed at Sl.Nos. 6, 5 and 4 respectively in the panel dated 29.9.1984 have been appointed. Thus, the panel was operated in 1993 and the applicant should also have been considered for appointment to the post of Store-keeper at that time and placed in the same panel.

4. The learned counsel for the Respondents placed contention that A.O.C. Records, who was the appointing authority, had issued direction that the Group 'D' selected for appointment as Store-keeper shall not be considered for appointment, as 10% posts of LDCs/ Store-keepers are filled up from amongst the

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successful candidates, who qualified in the departmental test annually conducted by the Commandant, College of Material Management, Jabalpur, in accordance with the office instructions. It is claimed that 10% quota for Group 'D' employees upto the year 1990 have already been filled up by the departmental candidates and the selection could only have been made by the Commandant, College of Material Management, Jabalpur. It is also claimed that none of the selected employees had been appointed till the date of filing counter reply on 4.3.1994.

5. The recruitment notice No.1308/ADM dated 23rd August, 1984 makes it clear that 7 posts could have been filled up from amongst the candidates sponsored by the Employment Exchange, Allahabad as well as departmental candidates, who fulfilled the qualifications required for being considered for appointment to that post. We find from this notice, which is Annexure No.A-1 to the OA that the qualifications consisted of minimum of High School and the age requirement was between 18 to 25 at the time of initial appointment. The date of appointment of Class IV employees was also sought for. Thus, the departmental employees were eligible for being considered against the posts, which were to be filled up by direct recruitment. The contention of the Respondents that only 10% posts could be filled up from amongst the successful candidates, who qualify in the departmental test appears to be erroneous, as it cannot be applied in the case of direct recruitment. It would only be applicable to the case of promotion on the basis of limited competitive examinations.

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6. We find that the order dated 9.10.1993 annexed to the R.A. as Annexure No. RA-1, suggests that S/Sri Raj Narain, Gulab Chand and Deota Din were new appointees to the post of Store-keeper. Their names, as mentioned earlier, were included at Sl.Nos. 6, 5 and 4 respectively in the panel dated 29.9.1984. If these persons have been appointed on the basis of the selection held and finalised on 29.9.1984 in the panel, the applicant is also entitled to be considered for appointment to the post of Store-keeper. If this is not done, it would amount to discrimination and violation of Articles 14 and 16 of the Constitution of India.

7. We, therefore, direct the Respondents to consider the case of the applicant, who had qualified in the selection and empanelled for the post of Store-keeper and give appointment to the post of Store-keeper with effect from the date 3 candidates sponsored by the Employment Exchange were appointed to the post of Store-keeper. The respondents shall carry out the directions within a period of two months from the date of communication a copy of this order is filed before them. No order as to costs.

*Rajiv Kumar*  
J.M.

*A.M.*  
A.M.

Nath/