

RESERVED

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

ORIGINAL APPLICATION NO.194 OF 1999
WITH

ORIGINAL APPLICATION NO.141 OF 1999
ALLAHABAD THIS THE 20th DAY OF OCTOBER 2006.
HON'BLE DR. G.C. SRIVASTAVA, V.C.
HON'BLE MR. A.K. BHATNAGAR, A.M

O.A. NO.194/1999

Anoop Singh Rawat, son of Sri Dileep Singh Rawat, Resident
of House No.6 Badris Colony Sardhana Road by Pass, Kander
Kera Meerut.

.....Applicant.

(By Advocate: Sri A.I. Naqvi/Sri R. Verma/Sri S. Prasad)
Versus.

1. The Union of India through the Secretary Ministry
of Defence, Secretariate, Parliament House New
Delhi.
2. 510 Army Base Workshop through its Commandant,
Meerut Cantt. Meerut City.
3. The Commandant 510 Army Base Workshop Meerut Cantt.
Meerut.
4. Colonel Viney Sagar G.M Technical Officiating
Commandant 510, Army Base Workshop Meerut, Cantt.
Meerut.
5. Director General Electrical Mechanical Engineer
Corps (DOEME) Directorate B-Block D.H.Q./B.O New
Delhi-11.

.....Respondents.

(By Advocate: Sri S. Singh)

O.A. No.141 of 1999.

Rajendra Kumar aged about 21 years, son of Shri Randher
Singh resident of Village and Post Kekra, Tehsil Kekra
District Baghpat.

.....Applicant

(By Advocate: Sri A.I. Naqvi, Someshwari Pd.)
Versus.

1. The Union of India through the Secretary Ministry of
Defence, Secretariate, Parliament House New Delhi.
2. 510 Army Base Workshop through its Commandant, Meerut
Cantt. Meerut City.
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Meerut.
4. Colonel Viney Sagar G.M Technical Officiating
Commandant 510, Army Base Workshop Meerut, Cantt.
Meerut.
5. Director General Electrical Mechanical Engineer Corps
(DOEME) Directorate B-Block D.H.Q./B.O New Delhi-11.

.....Respondents

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(By Advocate: Sri S. Singh)

O R D E R

By DR. G.C. SRIVASTAVA, V.C.

These O.As. have been filed for issuing direction to the respondents to appoint the applicant in a vacant post of labourer. The applicants have, through this O.A., sought for following relief(s):-

- "(a) That the entire action of the respondent NO.4 and the procedure adopted by him for appointment on the 7 posts of Labourers, vacancy of which was notified by the respondent No.3 vide DO dated 19.11.1998 (Annexure No.3) and published in News paper (Annexure NO.1) as officiating Commandant of 510 Army Base Workshop Meerut Cantt Meerut after the transfer of the Commandant be declared null and void and be quashed, as he is not be appointing authority being an officiating Commandant much inferior in rank than the commandant.**
- (b) That the respondent NO.3 be directed to appoint the applicant on merits on the basis of the written examination as well as the physical test in which he has secured with the highest marks.**

Since the two O.As have identical cause of action and relief, these are being dispose of by this common order.

2. The facts of the case are that an advertisement was issued by the respondents for recruitment of Labourers against 16 vacancies, 9 of which were reserved for different categories and 7 for general category. The applicant applied for appointment on general category post and he appeared for a physical test on 22.12.1998 alongwith other candidates numbering 450. The applicants cleared the physical test alongwith 78 others and were asked to appear for written examination on 22.12.1998. In written examination, the applicant found that there were about 500 candidates although only 80 had cleared the physical test. They were told that additional

candidates were allowed to appear in the written examination at the instance of respondent NO.4 who was officiating as Commandant on transfer of earlier incumbent. After the written examination, 74 candidates including the applicant were called for the interview but applicants were not selected. It was also noticed by the applicants that candidates who had cleared the physical test had their Roll Number starting from 3300 whereas those candidates who were taken from outside directly for the written examination at their Roll Number from 5000 onwards. The contention of the applicant is that 7 general posts have been filled up by the respondent NO.4 without any authority and without waiting for the joining of the regular incumbent of the post of Commandant with a view to accommodate his own men ignoring merit. The applicants represented against the irregularities committed in the selection process but nothing worthwhile has come out of that.

3. In their reply, the respondents have denied the allegations made by the applicant and have contended that selection has been made purely on merit.

4. We have heard the counsel for both the parties and have also gone through the material on record.

5. The main argument of the applicants is that only those candidates who appeared in the physical test on 22.12.1998 and cleared it should have been allowed to appear in the written examination on 22.12.1998. It has been alleged by the applicant that around 420 outsiders were allowed to appear in the written examination without having cleared the physical tests. The respondents have not responded to this specific allegation and have only averred that no irregularities have been committed during the

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selection process and that only those candidates who qualified in the physical tests were permitted to appear in the written examination. In this connection, it is worthwhile to reproduce para 4(D) and (E) of the O.A., these paras are as follows:-

"(D) That thereafter the respondent NO.3 called the applicant for physical test for 21.12.1998, when on 21.12.1998 the applicant appeared before the respondents No.3 he was asked to appear in the physical race alongwith other candidates whose total No. including the applicant was 450. The applicant qualified the physical race test. The respondent NO.3 selected 80 candidates out of the aforesaid 450 candidates including the applicant for written examination, fixing 22.12.1998 for written examination.

(E) That on 22.12.1998 the applicant appeared in the written test alongwith other candidates and after the examination, he was informed by the office of the respondent NO.3 that the result would be declared later on the notice Board. It is relevant to mention here that though only 80 candidates were selected by the respondent NO.3 on 21.12.1998 after the physical race test for written examination but when the applicant appeared in the written examination on 22.12.1998, he found that 420 more candidates who were outsiders were also allowed to appear in the written examination alongwith the aforesaid 80 selected candidates on 21.12.1998 by the respondent NO.3 after physical race test thus increasing the total of candidates who appeared in the written examination as 500 candidates. On inquiry about the reasons for including the number of candidates in the written examination, it transpired that it was done by the order of respondent No.4 without informing the respondent NO.3 taking the advantage of news of transfer of respondent NO.3".

6. The reply of the respondents to these paras are as follows:

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"8. That the contents of paragraph 4D of the petition is admitted.

9. That the contents of the paragraph 4E of the petition is admitted only to the extent that the applicant appeared in the written test alongwith other candidates for the post of labourer on 22nd Feb. 1999 and that the result of the test was to be declared at a later date. Remaining part of this Sub paragraph is false and fabricated, hence denied. These candidates who qualified the physical test were only permitted to appear in the written test"

7. From the above, it is clear that the respondents have admitted that only 80 candidates cleared the physical test held on 21.12.1998 but have not cleared stated as to how around 500 candidates were allowed to appear in the written examination held on the next day. We also perused the records, which were produced by the respondents in pursuance of this Tribunal's order dated 4.4.2006 even these records are silent about the physical tests. The records merely comprise a list of candidates who appeared in the written and practical examinations without any reference to the physical tests. It is also noticed from these records that 7 candidates who have been finally selected, are from amongst those only who had roll Number of 5000 onwards. It is strange that none of the candidates who had Roll Numbers beginning with 3300 find place in the final list. The respondents have not given any explanation as to why two separate sets of Roll Numbers were allotted to the candidates who appeared in the physical test on 22.12.1998 and those who appeared in the written tests directly without clearing the physical tests. The respondents have also not given any convincing reply to the allegations that only those candidates who appeared directly in the written examination were selected and not even one out of those who cleared the physical test on 22.12.1998 could make to the final list.

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8. Regarding the competence of the respondent NO.4 to complete the selection process, the respondents have clarified that respondent NO.4 was competent to act as the Appointing Authority for class III and Class IV civilian employees in the Defence Services as per Ministry of Defence letter NO.3.12.1973 (Annexure CA-1). This is, however, an issue on which we would not like delve into as it is question of internal administration of the Department.

9. Learned counsel for the respondents also took a legal issue stating that those who were selected out of this selection process have not been impleaded as respondents in this case and therefore, no decision which may affect them adversely can be taken without giving them opportunity of hearing. This objection is not relevant, as the applicants have not sought for any relief against any particular candidate and have only prayed for appointment on merits.

10. Learned counsel for the applicant submitted that the applicant had brought the alleged irregularities in the selection process to the notice of the Higher Authorities and even they had met some of the respondents but no tangible result as emerged out of these representations made in writing as well as orally.

11. From the discussion above, it is clear that there have been certain serious allegations which have not been answered by the respondents to our satisfaction. The applicants have given very convincing grounds in support of their allegations. We are of the view that these allegations have to be gone into in detail to ensure that only meritorious candidates are selected. We are, therefore, of the considered view that respondent NO.1 i.e. Secretary to Government of India, Ministry of Defence has to get these allegations looked into and take suitable

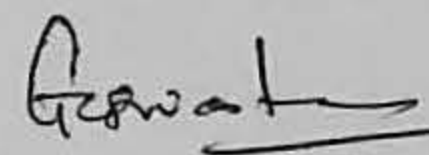
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measure to ensure fair selection and also justice to the applicant. Accordingly, we direct the respondent NO.1 to consider the various representations made by the applicants and also treat the submissions made in these O.As. as part of the representation and pass a detailed and reasoned order on various issues raised by the applicants. If it is found that ~~an~~ irregularities have been committed in the selection, the whole process will have to be reinitiated so that only meritorious candidates are selected. This whole exercise should be completed within a period of six months.

12. With these directions, the O.A. is disposed of.


Member-J

Manish/-


Vice-Chairman.