

Open Court

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH : ALLAHABAD

Original Application No.1259 of 1998

alongwith

Original Application No.124 of 1999

alongwith

Original Application No.223 of 1999

alongwith

Original Application No.841 of 2000

Allahabad this the 14th day of May, 2004.

Hon'ble Mrs. Meera Chhibber, J.M.
Hon'ble Mr. S.C. Chaube, A.M.

1. Jitendra Singh Bist,
Son of Sri Bachchi Singh Bist,
aged about 32 years,
resident of Post & Vill. Dandi Nehrugram,
District Dehradun.
2. Jogendra Kumar Ruhela,
Son of Sri Mahendra Prakash Ruhela,
aged about 29 years,
resident of C/o Sri Hari Prasad Sharma
Sajawan Khera, Amwala Tarala Tapowan
Enclare, Raipur Road, Dehradun.

..... Applicants in OA No.1259 of 1998.

(By Advocate : Shri S. Narain)

1. Ganesh Chandra Tewari,
Son of Sri G.C. Tiwari,
resident of Quarter No.
QA-36/2, Old Area, OFD Estate,
Raipur, Dehradun.
2. Ariun Singh Son of Sri Y.K. Singh,
resident of Vill. Badripur,
P.O. I.I.P., Dehradun.

..... Applicants in OA No.124 of 1999.

(By Advocate : Shri S. Narain)

1. Yash Raj Singh Payal,
Son of Sri B.S. Payal,
resident of A-9,
Shiv Lok Colony,
Raipur, Road, Dehradun.

..... Applicant in OA No.223 of 1999.

(By Advocate : Shri R.P.Singh)

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1. Sudhir Kumar Singh Negi,
Son of Sri Dilwan Singh Negi,
aged about 28 years,
resident of Village Sunderwalar,
P.O. Raipur, Dehradun.
2. Priti Dhingra
aged about 25 years,
Daughter of Mr. D.P. Dhingra,
Resident of 59/13, Park Road,
Dehradun.

.....Applicants in OA No.841 of 2000.

(By Advocate : Shri R.P. Singh)

Versus

1. Union of India,
through Secretary,
Ministry of Defence,
New Delhi.
2. The Controller,
Controllerate of Quality Assurance
(Instrument) C.Q.A. (I) Ministry
of Defence (DGQA) Government of
India, Dehradun.
3. The Director General,
Quality Assurance,
Department of Defence Production
and Supplies, Ministry of Defence
Government of India, New Delhi.

.....Respondents in all the OAs.

(By Advocate : Sri S. Chaturvedi)

ORDER

By Hon'ble Mrs. Meera Chhibber, J.M. :

In all these O.As applicants have a common grievance and they have sought same relief therefore, all the four O.As are being disposed off by a common order for the purposes of giving facts. O.A. No.1259/98 is being taken as lead case.

2. In all these O.As, applicants have challenged the order dated 14.09.1998 whereby advertisement No.169 dated 08.05.1996

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and selections held on 09th & 10th November 96 have been cancelled.

3. It is submitted by the applicants that respondents advertised 39 posts of chargeman Gr.II in the Central Employment News and invited applications from all over India. Simultaneously letter dated 08.05.1996 was also issued calling the applications in proforma wherein last date for submitting the applications was 25.05.1996 for departmental candidates (Annexure A-I and A-2) Since applicants fulfilled the eligibility criteria, they applied and appeared in the written test. They qualified in the written test and were called for interview vide letter dated 09.11.1996 as interview was issued to be held on 27.11.1996. It is submitted by the applicants that ^{They} ¹² did very well in the interview and were passed. Even though, the select list were also prepared but for reasons best known to the respondents, the results were not declared. Subsequently vide order dated 14.09.1998(Pg.14) notification dated 08.05.1996 was cancelled. It is this order, which has been challenged by the applicants in the present O. As on the ground that once they were selected, the notification dated 08.05.1996 could not have been cancelled by the respondents, especially when no reasons were given while cancelling the notification. Counsel for the applicants relied on Ministry of Home Affairs's letter dated 08.02.1982(Pg.28) to show that there were no limit on the period of validity of the list of selected candidates prepared to the extent of declared vacancies either by the method of direct recruitment or through departmental competitive examination. In the said O.M. itself, it was further stated that once a person is declared successful according to the merit list of selected candidates, which is based on the declared number of vacancies, the appointing authority has the responsibility ^{to appoint them} even if the number of vacancies undergoes a change, after his name has been included in the list

of selected candidates. Counsel for the applicants thus submitted that since applicants were already selected, respondents could not have cancelled their selections nor could have advertised fresh advertisement for selection for the same post of chargeman Gr.II. It is submitted by the applicants that during the pendency of the O.A. respondents ~~fresh advertisement for B~~ have issued ¹⁴ posts of chargeman Gr.II in the Central Employment News dated 13/19-03-2004 and the Employment News dated ^{but B} 20-26 March 2004 as in the meantime some of the applicants have ~~already B~~ ^{apply for B} become over age ~~and they cannot even appear~~ in the subsequent selections to be held by the respondents. Therefore, they cannot be made to suffer for the fault of respondents if any.

4. Counsel for the applicants have filed Misc. Application No.2259/2004 with an alternative prayer that respondents be directed to permit the applicants to appear in the selection test for the post of chargeman Gr.II, which are advertised vide advertisement published in Employment News dated 13th to 19th March 2004 and 20th to 26th March 2004 by granting them relaxation of the age and to permit them to give their applications now ignoring the prescribed last date for submission of applications because unless the age relaxation is given by the court, those persons who have become over age in the meantime could not have applied for the post pursuant to the advertisement given now.

5. Respondents have opposed this O.A. on the ground that they have no legal right for seeking appointment or declaration of the results. They have submitted that since results were not yet declared and no appointment letter was issued in favour of anybody, it was open to the respondents to cancel the same, without assigning any reason. They have explained that the entire selection process was ~~con~~ found irregular as mal-practices were adopted in selection process

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for which the department has made enquiry during which it was revealed that the selection process were not fair and proper being based on mal practice. Therefore, the entire selection was cancelled and it was felt that fresh selections should be held in the interest of justice. Not only the selection was cancelled but disciplinary proceedings have already been initiated against the erring officials, order issued and steps are being taken against the other officials also. Therefore, in these circumstances applicants cannot have any grievance nor can they seek the relief as claimed by them in the O.As. They have, thus, submitted that the O.A.s may be dismissed.

6. We had directed the respondents to produce the records for our perusal to see as to what were the serious irregularity committed in the selection and the reasons as to why the selections had to be cancelled. Respondents have produced the original records for our perusal and after seeing the record, we are satisfied that there was indeed mal-practices adopted in the earlier selection, therefore, respondents were right in cancelling the entire selection. We have also seen that action has been initiated against some of the officials and some officers have been warned also who were involved. Therefore, the orders passed by the respondents cannot be said to be either illegal or arbitrary. In such circumstances where large scale irregularities were found, it was best to cancel the said selection. When selections have been cancelled due to large scale malpractices naturally the relief as prayed by applicants cannot be given to them. In any case the results were not yet declared, therefore, no body has a right to claim to be appointed pursuant to such illegal selections. Therefore, the O.A. to that extent has to be dismissed. However, there is one aspect which requires to be looked into. Admittedly, all the applicants had applied pursuant to the earlier notification and they were all stated to be within the age limit

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at that time. Earlier the exams were held in 1996 whereas the selection has been cancelled in the year 1998 and respondents have now issued fresh advertisement in 2004 meaning thereby they have taken 8 years to hold fresh selection only in March 2004. Therefore, naturally some of the applicants have become over age in the meantime. We would agree with the applicants to that extent that if mal-practices were adopted by the respondents or their officers, it is none of their fault. Therefore, they should not be deprived of their right to atleast appear in the examination which is being held now as they want to compete with others and such right cannot be denied to them. If only respondents had taken quick action in cancelling and holding fresh selection probably applicants would not have been faced with this kind of a situation. After all they only want to appear and compete with others for further advancement in their career. Therefore, we are convinced that they can not be made to suffer for the malpractices adopted by the officers of respondents themselves and for the delay in issuing the notification. We had asked counsel for the applicants as well as respondents specifically whether the examination has been taken or not so far pursuant to the fresh advertisement to which both the counsel stated categorically that even the written test has not been taken so far. In fact, perusal of the fresh advertisement shows that last date for submission of applications was 30.03.2004 and since counsel for the respondents also gave a statement that written test had not been held so far, we direct the respondents to give age relaxation to such of the applicants, who have become over age in the meantime and to accept their applications pursuant to the fresh advertisement within one week from the date of receipt of a copy of this order. This order is being passed keeping in view the peculiar facts and circumstances of the case and subject to their fulfilling other eligibility conditions and requirements including the qualifications but except the age

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bar. In case applicants fulfill other conditions, applicant who apply should be allowed to compete with others by giving them age relaxation. We get support in taking this view from the judgment of Hon'ble Supreme Court reported in 2003 SCC(L&S)708.

7. In view of the above discussion, all the O.As are disposed off accordingly, with no order as to costs.