

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

ORIGINAL APPLICATION NUMBER 1032 OF 1999
ALLAHABAD, THIS THE 22nd DAY OF MARCH, 2004

HON'BLE MRS. MEERA CHHIBBER, MEMBER(J)
HON'BLE MR. S. C. CHAUBE, MEMBER(A)

Bishnu aged about 40 years,
s/o Late Shri Ganga Prasad,
c/o Shri Ganga Prasad,
House No.59, Kasim Bagh,
Fatehgarh, District-Farrukhabad.

....Applicant

(By Advocate : Shri Rakesh Verma)

V E R S U S

1. Union of India through the Secretary, Ministry of Defence, New Delhi.
2. The Commandant, Sikh Light Infantry, Regional Centre, Fatehgarh.
3. Mr. Praveen, s/o Shri Siya Ram, working as Range Chowkidar, Sikhlight Infantry Regimental Centre, Fatehgarh.

....Respondents

(By Advocate : Shri S. Mandhyan)

O R D E R

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

By this O.A. applicant has sought a direction to the respondent No.2 to put back the respondent No.3 on the post of Cook from the post of Range Chowkidar and to post the petitioner as Range Chowkidar and to pass such other order or orders which this Hon'ble Court may deem fit in the circumstances of the case.

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2. The brief facts as narrated by the applicant are that he was appointed as Cook on 18.12.1979 and posted at Fatehgarh whereas respondent No.3 was appointed as Cook on 06.05.1997 i.e. at a much later date. In 1994, applicant was given a certificate by the Chief Medical Officer, District Hospital Fatehgarh to certify that applicant is suffering from Extensive Asthamatic Bronchitis and fits, therefore, he should avoid smoke and dust etc. (Pg.19). Accordingly he gave an application requesting the authorities to change his trade and post him as Range Chowkidar.

3. Grievance of the applicant is that even though he had given his request in July 1994 itself but yet ignoring his claim respondent No.3 was allowed to change the category from Cook to Range Chowkidar with effect from July 1997, which was opposed by him by giving a representation. But since his representation was rejected vide letter dated 10.09.1997 he had no other option but to file the present O.A.

4. Respondents have opposed this O.A. They have explained that at the time of applicant's appointment, he had specifically stated Nil against the column of Educational Qualification (Annexure OCA-I). Whereas, as per the recruitment rules of Range Chowkidar, the prescribed educational qualification is middle class pass i.e. 8th Class pass. Further the duties of Range Chowkidar require physical exertion/running around ^{in the} range area and presence on duty every day. Range Chowkidar is also required to maintain his range register and liaise with police and obtain clearance certificate before firing on each day. Therefore, applicant does not fulfil the requirement for appointment as a range chowkidar because firstly he is illiterate and ^{secondly} he is not in a position due to his physical status to man the post of Range Chowkidar. They have



further explained that when applicant applied for change of trade, there was no post of Range Chowkidar vacant. The vacancy of Range Chowkidar became available only as 30.06.1995 but this vacancy could not be filled up for want of release order from the Army Headquarters. Subsequently 6 vacancies of Civilian Cooks were released by the Army Headquarters for employment at local level and one Shri Praveen Kumar Kanaujiya was employed on 06.05.1997 against the vacancy of Cook. He applied for change of trade from Cook to Range Chowkidar vide his application dated 10.07.1997. Since the work of Range Chowkidar was suffering, it was decided to re-classify him as range chowkidar w.e.f. 16.07.1997.

^{he had the requisite B}
Since educational qualification was young, energetic and scheduled caste and was found to be physically fit for the said post, his category was changed from that of Cook to Range Chowkidar. But as far as applicant is concerned after giving his application in the year 1994, he just kept quite and give his subsequent application only on 05.09.1997 but by that time Shri Praveen ^{already} Kumar Kanaujiya was also reclassified as Range Chowkidar and the post was already consumed. In any case, since applicant was not even suitable for the said post, he was suitably ^{informed} ~~reclassified~~ vide letter dated 16.09.1997.

5. They have further submitted that the matter was examined afresh and the Army Headquarter vide their letter dated 22.02.99 required the centre to obtain fresh medical opinion from the applicant with regard to his inability otherwise to perform the duties of cook, which was duly communicated to the applicant but applicant did not submit any fresh medical opinion thereafter instead ^{he} of filed the present O.A. They have, thus, submitted that there is no merit in the O.A. the same may accordingly be dismissed.

6. We have heard both the counsel and perused the pleadings as well.



7. In the letter dated 16.09.1997 respondents have rejected the claim of applicant for change of category from Cook to Range Chowkidar on the ground that these days cooking is done on LPG, therefore, there is hardly any smoke and dust in the kitchen room. Whereas applicant had taken only that ground for change of category. Respondents have also explained that for the post of range chowkidar minimum requirement of educational qualification is middle class pass i.e. 8th class pass whereas admittedly applicant is not a literate person as in his own application against the column education applicant had categorically stated Nil and even in the present application, applicant has not stated that he is 8th class pass. Moreover, as per applicant's own averment he is suffering from Asthmatic Bronchitis which definitely would not be suitable for the post of Range Chowkidar where his duty is ~~to remain~~ ^{to remain} on the spot when firing is undertaken and to maintain register also, which ^{no} would ~~be~~ be possible for the applicant to do ~~duty~~ with his illiteracy.

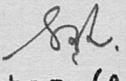
8. In these circumstances, naturally we cannot give direction to the respondents to appoint the applicant as Range Chowkidar. Since applicant is not himself entitled to be posted as Range Chowkidar, he has no right to ask for quashing of the appointment given to respondent No.3 as Range Chowkidar. However, from the reply filed by the respondents, it is seen that applicant was already called upon to give his latest medical report but he has not given any medical report so far. Therefore, in case applicant is finding some difficulty in cooking due to his illness of Bronchitis, it would still be open to him to take the latest medical report from the competent authority and represent to the authorities for giving him some alternative post where he can be adjusted suitably. In case applicant gives such a representation along with his latest medical report, we are sure, that



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authorities would apply their mind to the facts and given vacancies available at that time, pass appropriate orders thereon under intimation to the applicant.

9. With the above observation, this O.A. is disposed off with no order as to costs.


Member (A)


Member (J)

shukla/-