

Reserved

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Original Application No. 729 of 2003

Allahabad this the 3rd day of August 2006

Hon'ble Mr. Justice Khem Karan, Vice Chairman
Hon'ble Mr. P.K. Chatterji, Member (A)

1. Sriram Singh Son of Nathu Singh, r/o Village Chhindra Post Bamhorisar, District Lalitpur.
2. Pratap Singh Son of Deen Dayal, r/o Village Makdari, Post Makdari, P.S. Basai, Tahsil & District Datia (M.P.)
3. Khem Chandra, Son of Amar Say, r/o Mohalla Chawbiyana Quasba Talbehat, Post & Tahsil Talbehat, P.S. Talbehat, District Lalitpur.
4. Sarman Lal Son of Ram Das, r/o Village Khadi, Mohalla Nato, Post Khadi, Tahsil Talbehat, District Lalitpur.
5. Vikram Singh Son of Lal Singh r/o Village Phutera, P.O. Lakeview Camp Tahsil Talbehat, District Lalitpur.

Applicants

By Advocate Shri Pranav Ojha

Versus

1. Union of India through the Secretary, Ministry of Defence, New Delhi.
2. The Administrative Officer, Station Headquarter, Lakeview Camp, Talbehat-284125, District Lalitpur, U.P.

Respondents

By Advocate Shri Saumitra Singh

O R D E R

By Hon'ble Mr. P.K. Chatterji, A.M.

In this joint OA No. 729 of 2003 the applicants have impugned the order of respondent No. 2, wherein applicants were informed that the records and testimonials pertaining their applications for the post of Conservancy Safaiwala were being

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returned, as respondent No. 2 was not in a position to further process it.

2. The facts of the case as per the applicants are that respondent No. 2 by an advertisement in the "Amar Ujala" news paper dated 15.06.2002 invited applications from the eligible candidates for appointment for the post of Conservancy Safaiwala. On 27.07.2002, the applicants appeared in the interview alongwith the credential in response to the invitation for the interviews vide letter-dated 19.07.2002. In the interview testimonials regarding medical certificate, police verification, education certificate, birth certificate, caste certificate & experience certificate, were submitted. Thereafter, the applicants kept waiting for further intimation. However, for the reasons not known to the applicants, appointment letters were not issued and instead of it the impugned order dated 05.04.2002 was issued.

3. The grounds on which applicants have sought the relief are:

- a. The applicants have fundamental right to work and once the promise is held out not acting upon that is violation of Article 12 of the Constitution.
- b. By virtue of doctrine of promissory estoppel as held in Hon'ble Supreme Court decision in 1981 (2) SCC 673 the respondents cannot back out. In this respect the applicants have affirmed that calling the applicants for interview with the direction to bring specific credential of certificates etc tantamount to promise of appointment and, therefore, the respondents cannot back track.

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4. The applicants have cited the following from the judgment of the Apex Court in case of *Bhim Singh and others Vs. State of Haryana and others, (1981) 2 SCC 673*:

"Promissory Estoppel - Government employees moving over to the new department because of certain inducements held out by the Government. Held, government cannot go back on the representation made by it and acted upon - Labour and Services - Conditions of services - Conditions.

Held:

The appellants having believed the representation made by the State and having further acted upon cannot be defeated of their hopes which have crystallized into rights by virtue of the doctrine of promissory estoppel. Therefore, it is not open to the State of back track. It is bound to confer such rights and benefits are were promised by it in entirety."

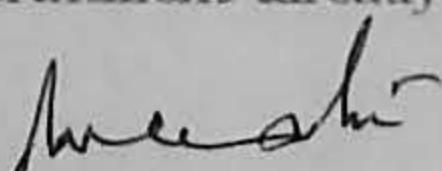
5. In the counter affidavit the respondents have submitted that on the direction of the Army Headquarters an advertisement was made for appointment of Safaiwala. Army Headquarters has issued Non Available Certificate (NAC) for 25 vacancies. Station Headquarters Talbehat commenced the procedure in the month of June 2002 and the selection of the candidates by a Board of Officers was finalized in August 2002. The Board proceedings are also stated to have been verified by Headquarters Allahabad Sub Area and found to be in order. Subsequently, in September 2002 Station Headquarters Talbehat was informed by Army Headquarters vide their signal dated 20.09.2003 that recruitment process should be kept in abeyance till further orders because Army Headquarters had received the complaint on alleged irregularity in recruitment. Thereafter, Army Headquarters sought some additional information from Station Headquarters Tabehat which was forwarded by the Station Headquarters on 02.11.2003. But despite numerous correspondences from the Army Headquarters no further communication in the matter nor any extension of NAC was received. For this reasons respondent No. 2 had to return the credentials to the applicants.

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6. Heard learned counsel for the parties. Applicant's counsel argued mainly on the issue of the respondents' right to terminate the process of recruitment after having proceeded so far. On the other hand the learned counsel for the respondents pointed out that no letter of appointment was issued and the process was terminated on complaint of irregularity in the process of selection. He does not agree with the view that doctrine of promissory estoppel can be invoked in this case.

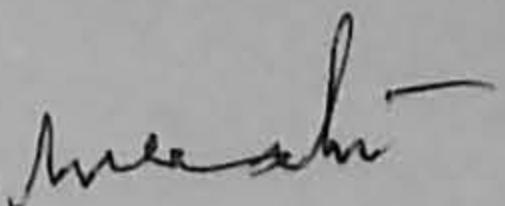
7. We have carefully considered the matter. We are concerned that a hope, which was nurtured by the applicants for some time, did not fructify for no fault on their part. It is also a settled point in law, as stated by the learned counsel for the respondents that if an authority embarks upon the process of appointment against certain vacancies, it is not incumbent or mandatory that the vacancies must invariably be filled up what ever be the developments in the meantime. There may be special situation/contingencies, which require a review of the matter. In this case a complaint had arisen alleging irregularity in the recruitment. It is also true that the process was terminated before issue of appointment letters to the applicants.

8. On all these considerations we are of the view that ends of justice will be met if the OA is partly allowed and if we issue a direction to the respondents that whenever NAC would be obtained and process of recruitment be initiated afresh the cases of these applicants should be considered first on the basis of the records of recruitment already processed before considering the applications

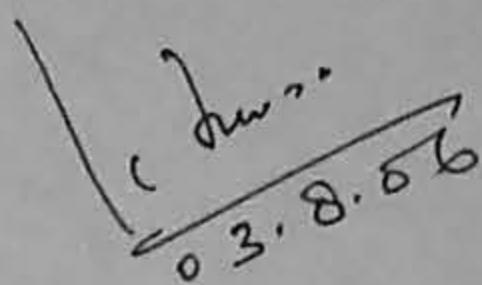
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which would be received against the notice of such fresh recruitment. We order accordingly.

9. There shall be no order as to costs.



Member (A)



✓ J.W. 3.8.56

Vice-Chairman

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