

CENTRAL ADMINISTRATIVE TRIBUNAL

AHMEDABAD BENCH

O.A.NO. /461/1993

~~T.A.NO.~~

DATE OF DECISION Dated 30.11.2005

P.S. Raithatha

Petitioner

Mr. K.K. Shah

Advocate for the Petitioner [s]

Versus

Union of India and others

Respondent

Mr. M.S. Rao

Advocate for the Respondent [s]

CORAM

The Hon'ble Mr. V. Ramakrishnan, Vice Chairman

The Hon'ble Mr. P.C. Kannan, Member (J)

JUDGMENT

- 1, Whether Reporters of Local papers may be allowed to see the Judgment ? ✓
- 2, To be referred to the Reporter or not ? ✓
- 3, Whether their Lordships wish to see the fair copy of the Judgment ?
- 4, Whether it needs to be circulated to other Benches of the Tribunal ? ✓

P.S. Raithatha
4, Bavsi ji Park
1st Floor
Porbandar- 360 575.

Haresh C. Bhadresha
Kidwai Nagar
Near Brahmasamaj
Raiya Road, Rajkot.

Applicants

Advocate: Mr. K.K.Shah

Versus

- (1) The Union of India
Notice to be served through
the Secretary
Ministry of Finance
Revenue Department
North Block, New Delhi.
- (2) The Chairman
Office of the Collectorate of
Central Excise & Customs
Race Course Road
Baroda.
- (3) Collector
Office of the Collectorate of
Central Excise & Customs
Opp: Karnsinji High School
Centre point Bunglow
Rajkot.
- (4) Collector
Office of the Collectorate of
Central Excise & Customs
Customs House
Opp: Gujarat High Court
Navrangpura, Ahmedabad.
- (5) Collector,
Office of the Collectorate of
Central Excise & Customs,
Surat.

Respondents

Advocate: Mr. M.S.Rao

JUDGEMENT

IN

Dated 30.11.2000

O.A./461/1993

Per Hon'ble Mr. V. Ramakrishnan, Vice Chairman;

The applicants two in number had applied for the post of Inspector of Central Excise and Customs against the vacancies of Sports Quota and are aggrieved by the impugned order dated 13th August 1993 as at Annexure A which appoints 17 persons as Inspector against sports quota where their names do not figure. They have filed the O.A. contending that they are qualified and meritorious and should be appointed against the sports quota.

2. There was an advertisement issued by the Collector of Central Excise and Customs Vadodara dated 16.6.91 calling for recruitment of meritorious sports men. A copy of this advertisement is at Annexure A-2. This inter alia provided for recruitment of *Inspector* Central Excise and Customs against the Sports Quota stating that the candidates will have to qualify in the prescribed physical test and those who qualify in the written test will be called for interview. This advertisement stated that there are 17 vacancies against the sports quota. Pursuant

to the advertisement a written test was held and the applicants having qualified therein were issued call letters for interview alongwith others. But they were not finally selected whereas 17 others have been so selected. They contend that they are very eminent sportsmen who have represented the State etc. in Cricket and that they ought to have been appointed. It is also their stand that the procedure followed for appointment is not in order as the marks obtained in the written test had been ignored and undue weightage has been given for the interview. There is also an allegation that the selection has not been objectively done and a person who did not come up to the minimum physical standards namely one Miss Shital G. Gohil has been appointed on the basis of undue influence brought by her. Hence the present O.A.

3. We have heard Mr. K.K.Shah for the applicants and Mr. M.S. Rao for the respondents. At our direction Mr. Rao has made available to us the minutes of the interview committee held on 11.8.92 which had selected 17 persons for appointment as Inspectors of Central Excise

and Customs against the sports quota.

4. Mr. K.K.Shah for the applicants submits that the applicants are eminent sportsmen. He relies in this connection on the statement at Annexure A-1 which shows that the applicant No.1 had represented Saurashtra in Gujarat in Vijay Hazare Trophy in 1986-87 and represented West Zone in All India Inter Zonal Cricket Tournament and represented Saurashtra University in Inter University Cricket Tournament held at Bhavnagar and also represented Saurashtra University in all India Universities Cricket Tournament. Applicant No.2 had represented Saurashtra University in Cricket Tournament at Surat in 89-90 and at Bhavnagar in 1990-91. at Amreli in 1991-92 and represented All India Inter University in the year 1990-91. As such they ought to have been given preference over others who according to Mr. K.K.Shah have not reached the same level in other sports. Mr.Shah also submits that the advertisement clearly provided for a written test but while making the selection the department has gone on the basis of viva voce where the marks were not given on an objective basis. The decision to ignore the marks in written test with the viva

voce test has resulted in serious loss to the applicants. It is also contended that the recruitment procedure ought to have involved field trial which was not conducted in the present case. There is a reference in this connection to the advertisement issued by the Staff Selection Commission for the post of Inspectors in Central Excise and Customs, Income-tax etc. against the normal vacancies which provided for a competitive examination. In such a competitive examination there is a written test consisting of four parts and those who qualify in the written test would be called for ^{personally} ~~personal~~ test and the marks in both tests would be added for the purpose of determining the merit list. It is contended that the department cannot follow a different standard for filling up vacancies against the sports quota.

One of the candidates selected is the relative of a senior police officer and it is alleged that she was selected on the basis of favouritism even though she did not fulfill the necessary requirements.

5. Mr. M.S. Rao states that certain posts were ear-marked for being filled against the sports quota in the cadre of Inspectors, U.D.Cs

L.D.Cs and Sepoys. So far as the posts of Inspectors are concerned, there were 17 vacancies and the advertisement made it clear that candidates who apply for the post of Inspector and who qualify in the written test will have to qualify in the personal interview. Mr. Rao refers in this connection to the General circular of the Central Board of Excise and Customs dated 9th March 1987 - copy at Annexure R-2. This circular makes it clear that while making recruitment of meritorious Sports men, all the listed candidates should be subjected to a written test which should be purely a qualifying test. Those who obtain the minimum marks for qualifying in the written test, shall be called for an interview. There is no requirement to add the marks in the written test as the intention is to give encouragement to persons who are eminent sports men and come upto the minimum standards for holding the post of Inspector. For recruitment against this quota, the eligibility criteria as laid down in the Recruitment Rules, cannot be relaxed. They should also indicate in the application form whether they have participated in the (1) the International Competition (2) National Competition (3) Inter-

University Tournaments (4) National Sports/Games for Schools (5) Physical efficiency drive. They are required to produce the certificate from the competent authority for example from the Secretary of the National Federation of the concerned Sport/Game for International competition, the Secretary State Association in respect of the National Competition, Dean of Sports or officer in charge of the sports of the University concerned in support of Inter-University Tournaments etc. A specimen form is also given. The present applicants had applied pursuant to such advertisement in the prescribed form and they had indicated that they had participated in the Inter-University Tournaments. They were considered alongwith the other applicants by a committee consisting of senior officers namely, the Collector of Central Excise and Customs, Vadodara, four Addl. Collector s of Rajkot, Ahmedabad, Surat and Kandla and Deputy Collector (P&V) Central Excise and Customs, Vadodara. The Committee noted that there were 24 candidates including the present applicants and they were to be called for the interview. The Committee held that one candidate had not represented International Competition Inter University Tournaments nor National Sport

Tournament in Athletics but had only participated in Indian ^{Revenue} ~~Railway~~ Sports Meet and his participation in Kho Kho was not considered because it was not one of the games advertised and as such he was not eligible. The remaining 23 persons who had participated in the National Tournament or Inter-University Tournaments were interviewed. They were assigned marks after taking into account the level of their participation and their performance in the interview. On the basis of the marks assigned, 17 persons were selected and the last six were left out as there were only 17 vacancies. Mr. Rao submits that the Committee had considered the matter objectively and in accordance with the relevant rules and instructions. He submits that the allegation of mala fides is without any basis as no evidence has been brought in support of the same. There is only a statement that one of the candidate selected is the daughter of a Police Officer but ~~neither~~ neither she nor her father has been made a party respondent. It is alleged that she does not conform to the minimum physical standards but nothing has been shown to substantiate such an allegation. None of the selected candidates has been made ~~xx~~ a party in the present O.A.

Mr. Rao says that the decision not to hold the field trial has not in any way affected the selection. He says that it is clear from the relevant circular that the field trial is not obligatory. As 23 candidates had produced certificates from the competent authority regarding their participation in the National/Inter University Tournaments their eligibility was not in doubt and in such a situation the Committee did not consider it necessary to hold the field trial. Mr. Rao submits that the selection has been made keeping in view the sports credentials of the candidates and their performance in the interview and there is no justification in interfering with the same.

Mr. Rao submits that Miss Gohil a candidate in question has fulfilled the minimum physical standard as prescribed in the rules for the post of Inspector.

6. We have considered the submissions of both the counsel. Recruitment against sports quota is a special type of recruitment and certain quota is reserved for eminent sportsmen in Central Government Departments. Such a recruitment is made in relaxation of the normal recruitment procedure through the Staff Selection Commission but care has to be taken to ensure that the candidates fulfil the minimum

eligibility norms as laid down in the Recruitment Rules. We therefore reject the contention that ^{the} ~~some~~ practice followed by the Staff Selection Commission in adding marks obtained in the written test with the interview marks has necessarily to be followed in the present case.

There are detailed instructions in the Ministry of Personnel O.M. dated 28.12.72 which have been followed by the Central Excise and Customs Department. The relevant instructions issued by the Department of Central Excise and Customs makes it clear that the written examination is purely qualifying test in nature. This is seen from para 1.5 of the circular dated 9th March 1987- copy at Annexure R-2. In other words those who do not fail in the written test should be assessed for appointment on the basis of their interview. The written test is purely a qualifying test and there is no question of adding the marks to the written test with the marks in the interview. This is different from the procedure followed by the Staff Selection Commission in respect of normal recruitment but the appointment of sportsmen is being done in relaxation of the normal recruitment procedure.

Where the recruitment is made on the basis of a written test and interview and both the marks in written test and interview are added to-gether, There are some Supreme Court decisions

which lay down the maximum percentage of marks permissible for interview. In the present case the written test is only a qualifying test and marks in written test are not added. The intention is to encourage sportsmen who fulfil the eligibility norms and who come up to a minimum standard. For the purpose of inter-personal comparison among various aspirants the Government instructions lay down the order of preference to be given to meritorious sports persons. Broadly the scheme is as follows:-

First preference is to be given to those who have represented in International competition with the clearance of the department of Youth ~~and~~ Welfare and Sports. Second preference is to be given to those who have represented the State or Union Territory in National Championship organised by the National Sports Federation and have won the medal or secured position upto third place. The third preference is to be given to those who have ~~p~~ represented in Universities in Inter-Universities Games and have won the medal and the position upto third place. Fourth preference is to be given to those who have represented the State Schools in the National Sports/Games for Schools conducted by All India

School Games Federation and have won medals or positions upto third place. The fifth preference is to be given to those who have been awarded the National Award in Physical efficiency under the National Physical Efficiency Drive and the last preference is to those who have represented in the State/University/ State School ^{Teams} Sports but could not win a medal or a position. In the present case, the Interview Board consisting of senior officers had prepared a statement ~~sh~~ which brings out complete picture of the candidates who had participated and also the level of participation. All of them who have been selected had either participated in the National level tournaments or inter-University tournament. The two applicants have been shown as having participated in Inter-University Tournament. This is as per the certificate given by them in their application forms. They have not brought out that they have obtained any medal or position upto third place and as such they have been assessed against the last preference. The committee consisting of senior officers has assessed as many as 23 candidates after ignoring one candidate who was not eligible. It had taken into account their performance in the interview and their sports

credentials and assigned marks to them. From the statement prepared, it is clear that it has taken into account the games and the level of participation. It gave marks on the basis of the performance in the interview apart from taking into account their sports credentials. There is no reason to believe that committee acted under any ~~of~~ extraneous influence. As regards the allegation about Miss Shital Gohil the only ground urged is that Miss Shital Gohil ~~who~~ is the daughter of a Police Officer and does not fulfil the minimum physical standards and it is alleged that her father would have brought pressure on the Board to select her. There is no evidence in support of such an allegation. The contention that she did not fulfil the minimum physical standard is denied by the department and the applicants have not substantiated their stand. The applicants also has not made her ^{or her} father a party respondent, in the present O.A.

There is also a reference to a letter written by an M.P. to the Collector of Customs and Central Excise, Baroda. This letter is dated 15.9.92 and states that the marks obtained in the written examination ought to have been

✓ The included, / Hon'ble M.P. has brought out that some of the candidates who had appeared in the selection have approached him. He obviously was not aware of the instructions in this regard that the written test is purely a qualifying test and marks in the written test will not have to be added to the interview test. ^{letter from the} The Hon'ble M.P. also does not support the allegation of mala fides. In the absence of any cogent or convincing materials and as no evidence at all has been furnished in support of the allegation of mala fides, we reject the contention of mala fides.

12 We also do not agree that the selection committee would have acted arbitrarily and assigned marks without any basis in the interview. The posts of Inspector of Central Excise are fairly senior level posts and the candidates must conform to certain minimum standards of ^{awarding} ~~personality~~ ^{or} ~~personality~~. While assessing the marks, the committee has kept in view the games and the level of participation. There is nothing to show that they have acted in an arbitrary manner or they have any prejudice against the present applicants. As there were 23 persons

to be assessed and only 17 posts were available, the Committee had recommended 17 persons and necessarily had to leave out the six persons and it so happened that the present two applicants are among the six left out. Even among the six left out we find that three persons had secured more marks than the present applicants and only one person has secured less marks.

7. In the light of the foregoing discussion, we hold that there is no merit in any of the grounds urged in support of the O.A. The O.A. is dismissed with no order as to costs.

P.C. Kannan

(P.C.Kannan)
Member (J)

V. Ramakrishnan
30/11/2004

(V.Ramakrishnan)
Vice Chairman

pmr

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, AHMEDABAD BENCH

OA/TA/RA/CP/ 461/93 of 200

P.S. Rajitha

APPLICANT (S)

VERSUS

0-0-2 Σ 0/2

RESPONDENT (S)

I N D E X ----- S H E E T

SR.NO.	DESCRIPTION OF DOCUMENTS	PAGE
(1)	- OA.	1 to 33
(2)	Written Reply	34 to 41
(3)	Rejoinder	42 to 50
(4)	Judgement 30-11-2000	16 page

1 c' part

16 Dec 72

Certified that the file is complete in all aspects.

DY 8122

Signature of S.O. (R)

15712

Signature of Dealing
Hand.