

14
O.A. No. 823 of 2006

Order dated: 18.11.2008

CORAM:

Hon'ble Mr. A. K. Gaur, Member(J)

Hon'ble Mr. C.R.Mohapatra, Member (A)

We have heard Mr. M.Chand, Ld. Counsel for the applicant and Mr. P.R.J.Dash, Ld. Addl. Standing Counsel for the Respondents.

2. By means of this O.A., the applicant has prayed for quashing the selection undertaken on 16.10.2006 for two posts of Tailor. Inter alia, he also prays for a direction to Respondent Nos. 1 and 2 to consider his case for appointment to the post of Tailor.

3. Ld. Counsel for the Respondents, at the very outset, raised two preliminary objections. His first objection is that this O.A. is not maintainable on the ground that the applicant has not exhausted the departmental remedy of filing representation/appeal available to him and secondly the O.A. is hit by the principles of estoppel and ^{acquiescence} ~~acquisition~~.

4. Heard Ld. Counsel for the parties. Since the applicant has appeared in the selection without demur or protest and subsequently having been unsuccessful has approached this Tribunal, in our considered view and in view of the decisions rendered by Hon'ble Supreme Court in AIR 1986 SC page 1043 in Om Prakash Shukla vs Akhilesh Kumar Shukla, in AIR 1976 SC 2428 in Dr. G.Sarna's case and in 2007 SCC(L&S) page 792, in Union of India vs B.K.Girdhari Lal, if a person appears in a selection without

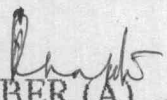
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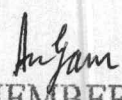
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any demur or protest, he is not entitled to challenge the validity of selection, the present O.A. is clearly barred by the principles of estoppel and ^{acquiescence} acquisition.

5. It is contended by the Ld. Counsel for the Applicant that at the relevant time, the applicant filed the O.A. in this Tribunal when the result was not declared. We do not find any force in the said submission.

6. In the above principles of law, the O.A. is dismissed as misconceived.


MEMBER (A)


MEMBER (J)