

10
CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

O.A.No. 113 of 2010

Cuttack, this the 8th day of October, 2012

CORAM:

THE HON'BLE MR.C.R.MOHAPATRA, MEMBER (ADMN.)

AND

THE HON'BLE MR.A.K.PATNAIK, MEMBER (JUDL.)

Sri Subodha Kumar Mahapatra, aged about 35 years, Son of Bhaskar Chandra Mohapatra of Village Rakala, PS Balimi, Po.Sanjapada, Dist.Dhenkanal.

....Applicant

By legal practitioner: Mr. S.N.Sharma, Counsel.

-Versus-

1. Union of India represented through its Secretary, Ministry of Human Resources Development Department of School Education of Literacy, Sastri Bhawan, New Delhi.
2. Navodaya Vidyalaya Samit represented through its Commissioner, A-28, Kailash Colony, New Delhi-110 048.
3. The Project Manager, NVS Recruitment Educational Consultant India Ltd., 18-A, Sector 16-A, Noida UP.

....Respondents

By legal practitioner: Mr.B.K.Mohapatra, ASC

ORDER

C.R.MOHAPATRA, MEMBER (ADMN.)

Having heard Mr.Sharma, Learned Counsel appearing for the Applicant and Mr.B.K.Mohapatra, Learned Additional Standing Counsel for the Union of India, appearing for the Respondents, perused the pleadings and documents relied in support thereof.

2. The grievance of the applicant is that he belongs to OBC community and was selected for the post of TGT Music (Oriya) in an open selection conducted by the Respondent-Department vide result published under Annexure- A/2. But despite passage of time he has not been issued any offer of appointment. Hence by filing the instant OA he

11
seeks direction to the Respondent Nos.2&3 to appoint him in the post of TGT Music (Oriya) with all consequential service and financial benefits retrospectively.

3. Respondents, by filing counter, contest the case of the Applicant. It has been stated by the Respondents that candidate placed at Sl.No.1 in the final result sheet in OBC category for the post of TGT Music (Oriya) was offered with the appointment. The applicant was placed at Sl.No.4 in the final result sheet. No candidate either above or below the applicant in the said list has been issued any offer of appointment. They have also stated that no person securing less mark than the applicant in either of the categories has been issued any offer of appointment. Hence, while denying the allegations of discrimination and arbitrariness etc., the Respondents have prayed that this OA being devoid of any merit is liable to be dismissed.


4. No material has been placed by the Applicant, either through the OA or in course of hearing showing anybody placed below the applicant has been appointed. Facts of the matter are that the advertisement was issued in the year 2003, interview was held on 24.7.2004 and result was published on 21/27th August, 2004. According to the Applicant he submitted representation after five years of publication of result i.e. on 08.12.2009 and filed this OA on 15th March, 2010 seeking the aforesaid relief. However, Applicant's Counsel submits that the select list is still valid and there are vacancies in the grade of


L

12

TGT Music (Oriya). He further contends that direction can be issued to the Respondents to appoint the Applicant as he was selected and empanelled through an open competitive examination. We have considered the submission of the Learned Counsel for both sides. We are of the opinion that select list cannot be treated as a perpetual reservoir for the purpose of appointments. If selection process is over whereby select list has expired and appointments have not been made, no relief can be granted by the court subsequently on the basis of the expired select list. None of the parties has produced Rule or Executive Instructions showing the validity period of the select list. No condition with regard to validity of the list was also mentioned nor were the number of vacancies notified in the advertisement.

5. In view of the above, we do not find any valid reason to issue any positive direction commanding the Respondents, at this distance of time, to act upon the then final select list as prayed for by the Applicant. However, considering the rival submissions of the parties, this OA is disposed of with direction to the Respondents that if the select list still remains valid and the Respondents seek to fill up vacancy in the grade of TGT, Music (Oriya) out of the select list, they should do so strictly in order of merit based on which select list had been prepared.


(A.K. Patnaik)
Member(Judicial)


(C.R. Mohapatra)
Member(Admn.)