

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JODHPUR BENCH,
J O D H P U R

.....
Date of order : 3 .4.2000.

O.A.No.352/96

Balveer Singh S/o Shri Tej Singh aged about 33 years, R/o C/o Shri Sambhu Ramji, Laxmi Nagar, Barmer, presently working as Civilian Messenger in 177 M.H.C/o 56 A.P.O.

.....Applicant.

versus

1. Union of India through the Secretary, Ministry of Defence, New Delhi.
2. The Medical Directorate/D.M.S.-3(B), Adjutant General Branch, Army Headquarters, DHQ, Post Office New Delhi 110011.
3. LT.Col.C.A.Jayaprakash, Commanding Officer, No. 177, M.H.C/o 56 A.P.O.

.....Respondents.

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CORAM :

HON'BLE MR.A.K.MISRA, JUDICIAL MEMBER

HON'BLE MR.GOPAL SINGH, ADMINISTRATIVE MEMBER

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Mr.S.K.Malik, Counsel for the applicant.

Mr.Vineet Mathur, Counsel for the respondents.

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PER MR.A.K.MISRA :

The Applicant had filed this O.A. with the prayer that the respondents be directed to produce the answer sheets of Shri Rajesh Tak for the written test held on 7.9.96 and also that of the applicant for the test held on 26.9.96. He has further prayed that the proceedings of Board of Officers who conducted the interview be also called and if the applicant is found more meritorious than Shri Rajesh Tak, the respondents be directed to give appointment to the applicant on the post of L.D.C. with all consequential benefits.

2. Notice of the O.A. was issued to the respondents who have filed their reply. Interim order to the following effect was also

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passed on the same day.

"Meanwhile, the respondents are restrained not to make any offer of appointment to the post of L.D.C. in pursuance of the interview held on 22.10.96, till the final disposal of this application."

3. We have heard the learned counsel for the parties and have gone through the case file.

4. There is no dispute regarding the facts as alleged by the applicant. The respondents have stated in the reply that as a measure of one time relaxation of ban on direct recruitment, Ministry of Defence had released the civilian vacancies to 177 MH to make up the deficiency to some extent. All vacancies were to be filled-in within a period of six months. There was no empanelled candidate, hence the Employment Exchange, Barmer, was requested to sponsor candidates for the notified post. Here, we may mention that the controversy in the O.A. is relating to selection for one post of L.D.C. as per the notified list of vacancies mentioned in the reply. It is stated by the respondents that as against one vacancy of L.D.C. only one candidate was sponsored by the Employment Exchange and he is Shri Rajesh Tak. He was subjected to written test and typing test on 7.9.96. Since the Employment Exchange had not sponsored sufficient number of candidates, therefore, the Employment Exchange, Barmer was again requested to sponsor few more candidates by 20th Sept.'96. In the meantime, the applicant who was working as Messenger at 177 Military Hospital since 1984, put up his personal appearance before the Commanding Officer for permitting him to appear in the selection. Since there was no instructions on this count, therefore, his request was refused. The applicant then approached Central Administrative Tribunal. Subsequently, the applicant was permitted to appear in selection test. Consequently, his O.A. was dismissed. The Employment Exchange, Barmer, could not sponsor suitable candidates by 20th Sept.'96, the selection process was postponed to 26.9.96 and the Employment Exchange, Jodhpur, was requested to sponsor the

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candidates. On 26th September, the respondents were informed that candidates sponsored by Jodhpur Exchange will appear late due to late delivery of letters, therefore, the applicant was subjected to written test. Thereafter, the Employment Exchange, Jodhpur and Pali were again requested to sponsor the candidates. On 22.10.96 one candidate Gulshan Rattan sponsored by Employment Exchange, Jodhpur, reported for selection, and, therefore, he was also made to appear in the written test as well as typing test. Shri Gulshan Rattan ~~was~~ found better than Shri Rajesh Tak. On the same date, the Board conducted the interview of all the three candidates for final selection for the post of L.D.C. The Selection Board recommended the name of Shri Gulshan Rattan for the post of L.D.C. after interview. Other two candidates i.e. Shri Rajesh Tak and the applicant were rejected by the Board after interview. Due to rejection of name of the applicant, he filed the present O.A.

5. Aforementioned facts are mentioned in the reply and they support the contention of the applicant that for filling one post of L.D.C., the respondents had conducted separate tests for each candidate and thus committed irregularity in the selection process. Although, the respondents have justified their action by narrating detailed facts but the facts remained that three candidates were subjected to written and typing tests at three different times. Therefore, in our opinion, explanation given by the respondents in respect of the selection process, is not very convincing. At the initial stage when the Employment Exchange, Barmer, had sponsored only one candidate, the respondents should have requested the Employment Exchange for sponsoring appropriate number of candidates but instead of doing this they examined only one candidate. When applicant approached he was also subjected to written examination and typing test. When Jodhpur Employment Exchange sponsored one more candidate subsequently then he was also examined. Thus, all the three candidates were examined at three different times which in our opinion was not at all proper. It is also doubtful whether

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one uniform policy and standard regarding examination was adopted. In view of this, we do not think that calling for the entire record relating to the selection for one post of L.D.C. and examining the same would help us in deciding the controversy. In fact, the entire selection process is irregular and deserves to be quashed. Although, the applicant has only prayed for calling for the record relating to the selection in question but in our opinion the procedure adopted by the respondents regarding selection for filling one post of L.D.C. is irregular and, therefore, the same deserves to be quashed and the O.A. deserves to be accepted in part.

6. The O.A. is, therefore, partly accepted. The selection for the one post of L.D.C. as per the Notification Annex.A/1 is hereby quashed and the respondents are directed to initiate the process of selection de novo as per rules and as per the instructions for one post of L.D.C., if the post is still available to be filled in.

7. The parties are left to bear their own costs.

Gopal Singh
(GOPAL SINGH)
Adm. Member

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3. u. 2000
(A.K.MISRA)
Judl. Member

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Copy of order
Received



S.K. Mallik
Adm.

11/4/2006

R/copy

Mr -
13/4
(Vimal-Mallik)
Adm

Part II and III destroyed
in my presence on 16.12.2006
under the supervision of
Section Officer (Record)
order dated 23/12/2006

Section Officer (Record)