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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JODHPUR BENCH, JODHPUR.

* * *

Date of Decision: 10.12.96

OA 377/96

Rajendra Prasad Sharma, Carpenter under AOC 32 Wing, Air Force, Jodhpur, in the Station Workshop, No.32 Wing, Jodhpur.

... Applicant

Versus

1. Union of India through the Secretary, Ministry of Defence, New Delhi.
2. The Air Officer Personnel (AOP), Air Headquarters (Vayu Bhawan), New Delhi.
3. Air Officer Commanding, No.32 Wing, Air Force, Jodhpur.

... Respondents

CORAM:

HON'BLE MR.GOPAL KRISHNA, VICE CHAIRMAN

HON'BLE MR.S.C.VAISH, ADMINISTRATIVE MEMBER

For the Applicant

... Mr.S.K.Malik

For the Respondents

...Mr.M.R.Swamy,brief holder for
Mr.P.P.Choudhary

O R D E R

PER HON'BLE MR.S.C.VAISH,ADMINISTRATIVE MEMBER

Applicant, Rajendra Prasad Sharma, is a Carpenter with respondent No.3 i.e. A.O.C., Air Force, Jodhpur. He has come to the Tribunal seeking the relief that the direction of the respondent subjecting him to a suitability test for selection to the post of Store Keeper/Assistant Store Keeper (Anns.A-1 to A-4) be quashed. Short notice was issued to the respondents, dasti, who have appeared today. We have heard the learned counsel for the applicant and the respondents on the question of maintainability of this application.

2. There is a history of litigation in this case. The applicant had originally come to this Tribunal in OA 402/92 (Ann.A-8) and this Tribunal, by its order dated 30.6.93, had decided ;

"The respondents are, therefore, directed to pass necessary order on these applications according to rules within a period of three months and he should be considered for the posts for which he has applied."

Thereafter, the applicant came in another application No.34/94 (Ann.A-10)

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which was decided on 24.11.95. In this application, the Tribunal decided ;

"Consequently, while allowing this OA and quashing the impugned order Annexure A-1, dated 1.11.93, the respondents are directed to consider the applicant for appointment and appoint him either as Store Keeper or Asstt. Store Keeper notwithstanding the rider that he is an industrial worker, if otherwise found suitable. The respondents should comply with the aforesaid direction within a period of 3 months of the date of receipt of copy of this order. No order as to costs."

There was a specific finding that he should be appointed as Store Keeper or Assistant Store Keeper if otherwise found suitable. Thereafter, the applicant moved Contempt Petition No.21/96 and this Tribunal, by its order dated 19.9.96, issued a direction to the respondents that within two months of the date of receipt of this order the petitioner will be subjected to another suitability test and if found suitable he will be offered the appointment.

3. Now the applicant has sought the following reliefs :-

"(i) That by an appropriate writ, order or direction the impugned order Numbers 32W/2233/100/PC dated 18.10.96 (Annexure A/1), 32W/2233/100/PC dated 29.10.96 (Annexure A/2), 32W/2233/100/PC dated 1.11.96 (Annexure A/3) and 32W/2233/100/PC dated 18.11.96 (Annexure A/4) respectively be declared illegal and be quashed and set aside as if the same were never issued against the applicant, and the respondents may be directed to adjudge the suitability as has been adjudged in respect of the candidate selected for the post of SK/ASK on transfer basis in pursuance of letter dated 10.9.91 (Annexure A/5) and accord him appointment from the date persons so given appointment alongwith the consequential benefits."

The case of the applicant is that he should not be subjected to suitability test involving a written test as similarly placed persons were taken as SK/ASK without a written test. In this connection, he has referred to the circular dated 10.9.91 (Ann.A-5). The learned counsel for the applicant has further urged discrimination and unequal treatment.

4. The learned counsel for the respondents argued that persons taken without a written test in pursuance of Ann.A-5 were working on clerical posts and hence they did not have to go through a written test. The applicant is a Carpenter and the respondents find it necessary to subject

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him to a written test before considering him for the post of SK/ASK. It is for the respondents to judge the suitability of the applicant for the post of SK/ASK and, in the circumstances above, he cannot claim discrimination or unequal treatment. Moreover, as already discussed above, this case has been subjected to directions in two Original Applications and one Contempt petition. In these circumstances, it was laid down that the applicant will be considered by the respondents for the post of SK/ASK if otherwise found fit. The applicant cannot now plead how he should be found fit and that he should not be subjected to a written examination. The present case is already covered by the directions issued by the Tribunal and the present OA is not maintainable and dismissed in limine.

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(S.C.VAISH)

ADMINISTRATIVE MEMBER

G. Krishna
(GOPAL KRISHNA)

VICE CHAIRMAN

VK.

REC

[Signature]

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RC copy

Rami Alaraini
13/12/96

Part II and III destroyed
in my presence on 8/2/03
under the supervision of
section officer (J) as per
order dated 19/3/2000

[Signature]
Section officer (Records)

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