

**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH; JODHPUR**

ORIGINAL APPLICATION NO. 229/2004

DATE OF DECISION: 12.04.2005

**Hon'ble Mr. Kuldip singh, Vice Chairman.
Hon'ble Mr. G.R.Patwardhan, Administrative Member.**

Aidan Ram S/o Shri Nimba Ram,
by caste Mali, aged about 29 years,
R/o Village/Post Kewas,
Tehsil and District Barmer.

: APPLICANT.

► Mr. Rajesh Choudhary, Counsel for the applicant.

VERSUS



Union of India through the Defence Secretary,
Ministry of Defence, Government of India,
Raksha Bhawan, New Delhi.

Commanding Officer, 177 Military Hospital
Through 56 A.P.O. Jalipa Cant., Barmer.

3. Assistant Director of Medical Services,
H.Q. 61 (I) Sub Ara Through 56 A.P.O.
4. Station Commander,
Jalipa Cant., Barmer.
5. Raghuveer Singh S/o Rajendra Singh Chauhan,
R/o Laxmi Nagar, Paota, Jodhpur.

: Respondents.

Mr. Vinit Mathur, Counsel for the respondent Nos. 1 to 4.
Mr. Rakesh Arora, counsel for the respondent No. 5.

ORDER
Per Mr. Kuldip Singh Vice Chairman.

O.A. No. 229/2004. the applicant has assailed the selection made on 30.04.04 (Annexure A/1) vide which the department had selected a person and appointed to the post of Mali and the case of the applicant has been ignored. The

applicant has challenged the appointment of the said candidate as Mali. The facts as alleged by the applicant in brief are that certain number of posts of Group 'D' were required to be filled up by the respondent for the hospital i.e. 177 Military Hospital situated at Jalipa Cantt, Barmer by direct recruitment. Among those posts, one post of Mali was reserved for O.B.C and was required to be filled up and for that purpose, the vacancy was notified to the District Employment Exchange, Barmer vide letter dated 15.03.2004 and the said letter has been marked as Annexure A/1A. A reminder was also sent to the District Employment Officer, Employment Exchange Barmer vide letter dated 31.03.2004 for forwarding the list of candidates which has placed at Annexure A/2.

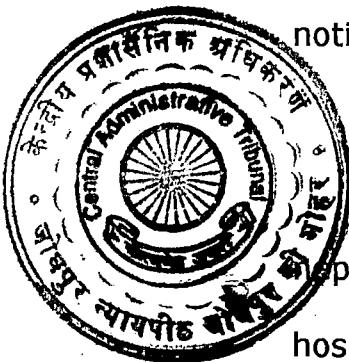


Thereafter the respondent No.2 issued a letter to the Dainik Bhaskar office Barmer, for the publication of advertisement about the Group 'D' vacancies in the said hospital and the copy of the said letter was placed at Annexure A/3.

The applicant submits that Annexure A/1A and A/3 suggest that the respondents had confined the advertisement for local candidates that is why even in the letter sent to Dainik Bhaskar, it was clearly specified that applications should be invited from local candidates. It is further submitted that applicant was O.B.C. as well as local Candidate possessing all requisite qualifications and experience for the post of Mali as per Annexure A/4 to A/9 and the applicant was also called for

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interview for the said post vide Annexure A/10. The applicant also participated in the selection process. But on the day of interview, the applicant came to know that respondent No.5 who was not a local candidate was also called for the interview and has been selected for the appointment in contravention of notification and advertisement.



It is further stated that the respondent No.5 is a real nephew of one Shri Balveer Singh, L.D.C. Working in the same hospital. Admittedly, respondent No. 5, a resident of Jodhpur who has never resided in Barmer district as such he cannot be said to be a local person and was also not having an Experience certificate from a recognized Institution, thus he was not eligible for the notified post of Mali.

It is further submitted that respondent No. 5 has been given undue advantage since his uncle was working in the same hospital. Therefore, it is a back door entry and the same is liable to be quashed and respondents are directed to make selection of the applicant and appoint him as Mali in the hospital.

O.A. is contested by the respondents and in their reply they pleaded that the selection of the candidate for the post of Mali has been done as per rules and policies on the subject and it is further respectfully submitted that vide Army Headquarters letter dated 31st Oct., 2003, the recruitment for Group 'D' is to be carried out on local basis i.e. Within the State of Rajasthan, so

[Signature]

as to enable selection to be based on reservation laid down by the State and the same has been complied with. The "local" basis cannot be circumscribed only to the District Barmer for the purpose of appointment in this case. It was in these circumstances that the post was advertised in the newspaper (Dainik Bhaskar) for all India/Rajasthan Page of newspaper published from Jodhpur and having circulation in the whole of Rajasthan. Neither anywhere in the advertisement was the district Barmer mentioned, nor even the address of the respondent No. 2 was given. Therefore, there is no logic or reason by the applicant to restrict the word local to Barmer in this case.



It is further stated by the respondent that the selection was entirely made by the Board of Officers constituted by an independent authority and it was based on merit in the interview and not by the favoritisms as speculated by the applicant and the selection was strictly in accordance with the rules on the subject. Therefore, the allegation made by the applicant that uncle of respondent No.5 who was instrumental in getting the respondent No.5 appointed is baseless.

We have heard the learned counsel for the parties and gone through the records. The main contention raised by the applicant as if the post was reserved for the local residents of Barmer. Though the letter to Dainik Bhaskar shows that the advertisement was meant for local persons and vacancies were

also notified to District Employment Exchange Barmer. But does it mean that only the candidates from Barmer could apply and could be appointed? The answer is No because the reservation for appointment from a particular locality and that too from one district cannot be made at all under the Constitution of India. Since vacancies had arisen in the hospital which is run by the Ministry of Defence and the employment was to be made by the authorities under the Central Government. Therefore, the candidate could apply from any part of India. In our considered opinion the word local (Sathanya) had mentioned because the posts were for Group 'D' and the candidates far flung ares may not be put into inconveniences. The word "local" cannot be said to mean restricted to one District. There can not be any reservation for local candidates on the basis of residence. Hence, on the ground taken up by the applicant has no merits at all. It is quite clear from the assertions of the applicant himself in his O.A. that he had participated in the Selection process and Competent Board Officers had conducted the interview and recommended the case of the respondent No. 5. Therefore, applicant cannot claim any right to be appointed on the post of Group 'D' on the basis of reservation for appointment on residents basis. Hence, the present O.A. is dismissed with no order as to costs.

— G.R.P. —

(G R Patwardhan)
Administrative Member


(Kuldip Singh)
Vice Chairman

Lalit/-



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Only Part
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in my presence on 9/1/14
under the supervision of
Section Officer (1) as per
order dated 18/12/13

Section Officer (Record)
9/1/14

Copy of order sent
(to P15 (consent for rev))

By speed post report

AD
Vide (a) 155
Alt 25 Nos 5