

**CENTRAL ADMINISTRATIVE TRIBUNAL  
JODHPUR BENCH**

**ORIGINAL APPLICATION NO. 11/2007  
JODHPUR THIS IS THE 16<sup>th</sup> JANUARY, 2009**

**CORAM:**

**HON'BLE MR. N.D. RAGHAVAN, VICE CHAIRMAN  
HON'BLE MR. SHANDAR PRASAD, MEMBER (A)**

**Keshri Chand Sharma S/o late Sh. Kedar Nath Sharma, aged about 31 years, by caste Sharma, Resident of Nehru Nagar, Ward No. 24, Post Nohar, Distt. Hanumangarh (Raj.)**

**.... Applicant.**

**For Applicant : Mr. Manoj Bhandari, Advocate.**

**VERSUS**

1)The Union of India through - the Secretary, Ministry of Human Resource Development, Department of Education, Government of India, New Delhi.

2)The Navodaya Vidyalaya Samiti, Jaipur, 18 Sangram Colony, Mahaveer Marg, C Scheme, Jaipur (Raj) 303001 through its Dy. Commissioner.

3)The Principal, Jawahar Navodaya Vidyalaya, Bhatinda Dharamshala, Pallu, District Hanumangarh (Raj.)

4)The District Employment Exchange through District Employment Officer, Hanumangarh (Raj).

5)Shri Gyani Ram, presently working as Chowkidar in Jawahar Navodaya Vidyalaya, Bhatinda Dharamshala, Pallu, District Hanumangarh (Raj).

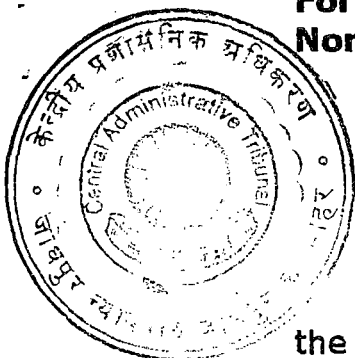
**....Respondents.**

**For Respondents : Mr. V.S.Gurjar, Advocate for 1 to 4.  
None for Respondent No. 5.**

**ORDER**

**[ PER SHANKAR PRASAD, MEMBER (A) ]**

Aggrieved by the action of respondents in not appointing him to the post of Chowkidar on the basis of selection held earlier and appointing the private respondent in the subsequent selection, the applicant has preferred the present O.A. He seeks quashing of the



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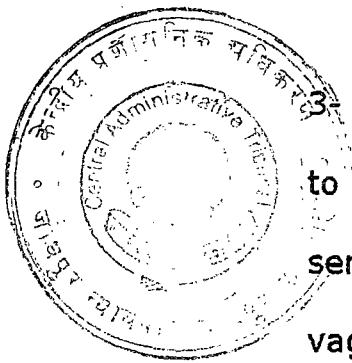
decision canceling the earlier selection and a further direction to the respondent to offer him appointment in terms of that selection and canceling the appointment of private respondent.

2- The facts lie in a narrow compass. Annex. A/3 to the O.A. is the communication addressed to the applicant asking him to appear on 22.12.2005 for the post of Chowkidar. The applicant was however, not appointed. His brother has approached the Legal Services Committee, Rajasthan High Court against his non-appointment and appointment of another person. The Deputy Commissioner, Navodaya Vidyalaya Samiti informed the Committee vide its letter dated 30.10.2006 (Annex.A/5) that as a number of deficiencies were found on examination of the proposal, the Committee was asked to re-advertise the post. The applicant has participated in the subsequent interview. The private respondent was most meritorious and was appointed. The reasons assigned for the cancellation of the selection are as under :-

***"The Committee has interviewed 17 persons, when only 16 persons have signed the attendance-sheet. Clause relating to relaxation of age for categories other than general was not included in the requisition. Panel was signed only by the Principal and not by other three members. Principal had not signed the panel prepared by other members individually. As the procedure had not been followed selection was cancelled.***

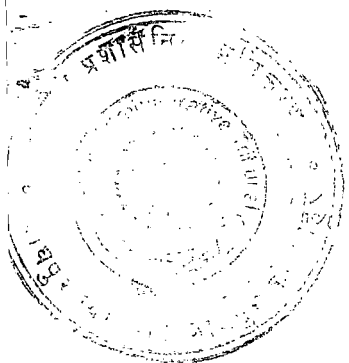
**[English Translation]**

The case of the applicant in brief is that no information was sent to the applicant regarding cancellation of selection. No intimation was sent to the employment exchange also. The reasons assigned are vague and pertain to the fault of management. The reasons for non-cancellation of selection are un-tenable. No formal orders are passed. The discrepancies were not on account of the fault of applicant. The



respondents are estopped from canceling the selection. The cancellation of selection entails civil and legal consequences. This has been done without giving him any notice. It seems that to accommodate private respondent his appointment was cancelled. The employment exchange did not forward his name on the second occasion. When he went to enquire, he was made to appear for selection. No rejoinder is filed.

4- The respondents have stated that mere participation in a selection does not confer any right for selection and appointment unless the selection process is completed in accordance with recruitment rules and procedure provided for this purpose. Unless the process is approved by Regional Office, the selection process is not complete. The deficiencies noticed in earlier selection and on account of which, approval could not be given, are mentioned in Annex. A/5. In any case, the earlier cancellation is not challenged. In any case, it is not a case where the irregularities could have been segregated. **Union of India Vs. O. Chakradhar** (2002) 3 SCC 146 is relied upon. A fresh requisition was placed with employment exchange and the names of 20 persons were forwarded. The name of applicant was not sent. Seven persons including the applicant applied directly. The non-forwarding has not caused him prejudice. Sixteen persons including the applicant appeared at the interview. The applicant was No. 5 on the list. Having participated and failed, he is estopped from challenging the correctness of procedure. The decision in **University of Cochin Vs. N.S. Kanjoonjamma** (1997) 4 SCC 426 refers. Once



he has participated and found un-successful, he can't challenge the selection. Reliance is placed on the decision in **Madan Lal Vs. State of J. & K.** (1995) 3 SCC 486; **Kailash Chandra Sharma Vs. State of Rajasthan** (2002) 6 SCC 562 and **Om Prakash Shukla Vs. Akhilesh Kumar Shukla** (1986) Supp. SCC 285.

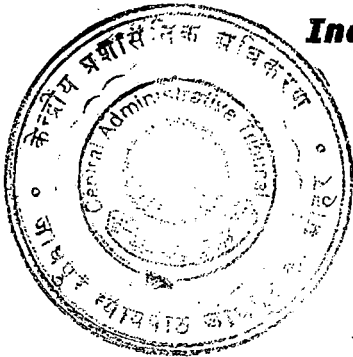
The applicant cannot derive support from equitable doctrines when it would be iniquitous to do so.

5- The private respondent has been served. He has, however, neither entered appearance nor filed any reply. The O.A. has proceeded ex parte against him.

6- The Constitution Bench in **Shankarshan Dash Vs. Union of India**, AIR 1991 SC 1612 has held :-

**"..... Ordinarily the notification merely amounts to an intimation to qualified candidates to apply for recruitment and on their selection they do not acquire any right to the post. Unless the recruitment rules so indicate, the State is under no legal duty to fill-up all or any of the vacancies."**

7- The Apex Court in **Hanuman Prasad and others Vs. Union of India** and anr., JT 1996 (8) SC 510 has held :-



**"It is then contended that though the selected candidates have no vested right, they had got a legitimate expectation for appointment when they were selected for being appointed. They should be given prior opportunity and also know the reasons for cancellation. In support of this contention, he placed reliance on paragraph 8 of the judgment of this Court in Asha Kaul & Anr. v. State of Jammu & Kashmir & Ors. [(1993) 2 SCC 573]. It is unexceptionable that when duly constituted**

selection committee makes recommendation for appointment of the selected candidates they candidates do not get any vested right or legitimate expectation until they are appointed according to the Rules; they have a chance to be appointed as have been selected by the recruitment agency. In that case, the Government had cancelled the select list without any reasons. This Court has laid the above rule in that backdrop. The ratio therein has no application for the reasons that after the perusal of the report submitted by the investigating agency, the competent authority had cancelled the selection so that the regular and proper examination could be conducted giving opportunity to everyone in a fair manner. No prior opportunity need be given in the case of mass copying. It is not the case where a named candidate committed copying. Accordingly, we do not find any illegality in the order passed by the Tribunal."

8- The Apex Court in **O. Chakradhar** (supra) has held :-

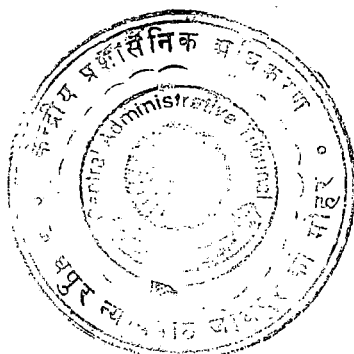
"The nature and the extent of illegalities and irregularities committed in conducting a selection have to be scrutinized in each case so as to come to a conclusion about future course of action to be adopted in the matter. If the mischief played is so widespread and all-pervasive, affecting the result, so as to make it difficult to pick out the persons who have been unlawfully benefited or wrongfully deprived of their selection, it will neither be possible nor necessary to issue individual show-cause notices to each selectee. The only way out would be to cancel the whole selection. Motive behind and irregularities committed also has its relevance."

9- The Apex Court in **N.S. Kanjoonjamma** (supra) has held :-

"4..... Having participated in the selection, she is estopped to challenge the correctness of the procedure. That apart, we have already held that procedure was correctly followed and therefore the omission to mention in the advertisement that it was a special recruitment is of no consequence."

10- The Apex Court in **Dhananjay Malik Vs. State of Uttaranchal** (2008) 4 SCC 171 has held :

"7. It is not disputed that the respondent-writ petitioners herein participated in the process of selection knowing fully well that the educational qualification was clearly indicated in the advertisement itself as BPE or graduate with diploma in Physical Education. Having unsuccessfully participated in the process of selection without any demur they are estopped from challenging the selection criterion inter alia that the advertisement

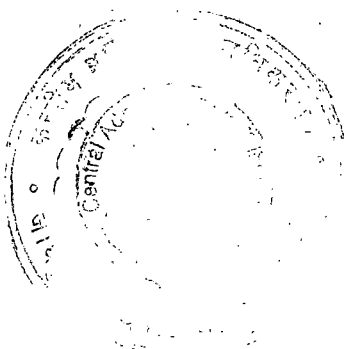


and selection with regard to requisite educational qualifications were contrary to the Rules.

9- In *Madan Lal v. State of J&K* this Court pointed out that when the petitioners appeared at the oral interview conducted by the members concerned of the Commission who interviewed the petitioners as well as the contesting respondents concerned, the petitioners took a chance to get themselves selected at the said oral interview. Therefore, only because they did not find themselves to have emerged successful as a result of their combined performance both at written test and oral interview, they have filed writ petitions. This Court further pointed out that if a candidate takes a calculated chance and appears at the interview, then, only because the result of the interview is not palatable to him, he cannot turn round and subsequently contend that the process of interview was unfair or the Selection Committee was not properly constituted."

11- The learned counsel for the applicant has placed reliance on the decision in *Rajesh Kumar Gupta and Ors. Vs. State of U.P. and Ors.*, (2005) 5 SCC 172. The Apex Court in para 12 of the judgement held that the Writ Petition could not be dismissed for non-joinder. It was held in para 13 that, as merit intention has been changed, the selection process could not be challenged. This decision is distinguishable as the applicant has participated in the subsequent interview.

12- Coming to the facts of this case, we find that the earlier selection was not approved by the Regional Office for reasons assigned in Annex. A/5. The decision in *Shankarshan Dash* shows that even a person on panel has no infeasible right to appointment. The decision in *Hanuman Prasad* shows that mere recommendation by selection committee does not create a legitimate expectation. The principles laid down in *Chakradhar's* case regarding cancellation are attracted. The selection committee has assigned marks under six heads viz. Interview, Experience, 400 Mtrs. , 100 Mtrs, Long Jump and High



Jump. The selected candidate has far excelled the applicant. The decision in **Kanjoonamma** and **Dhananjay Malik** apply to the facts of this case.

13- The O.A. is fit to be dismissed and is dismissed.

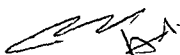
*Shankar Prasad*  
(Shankar Prasad)  
AM

*N.D. Raghavan*  
(N.D. Raghavan)  
VC

jr



R/C  
Ding Chen  
20.01.09

R/C 004  
on 2/11  


# IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

JODHPUR BENCH, JODHPUR

## ORDER SHEET

Misc. APPLICATION NO..... OF 2007 in O.A 11/2007

Applicant(s) UOI 2008

Respondent(s) Keshri Chand Sharma

Advocate for Applicant(s) Mr. N. S. Gurojar

Advocate for Respondent(s)

Notes of the Registry	Orders of the Tribunal
	<p>This is a misc. Application received by Post from the Counsel for applicants for deleting the respondent No. 1 from the array of respondents. It is D.B. Case and pertains to the Jurisdiction of Jodhpur Bench.</p> <p>On scrutiny it has following defects.</p> <ol style="list-style-type: none"> <li>① In affidavit, their verification date is placed not mentioned.</li> <li>② memo of appearance not filed.</li> <li>③ Exh. set along with envelope not filed.</li> </ol> <p>S.O. (Judl) <span style="float: right;">N 9/5/07</span></p> <p>Notified on 10-5-07</p> <p style="text-align: center;">B</p>

M.A. No. /2007 in O.A. No.11/2007

Date of Order: 18.05.2007

None present for the parties.

Defects have not yet been removed. List the case before the Bench for further direction on 08.06.2007. Meanwhile defects may be removed.

*[Signature]*

(V.P. KAMALAMMA)  
Registrar

08.06.2007

None present for the applicants.

D.B. not formed. List the M.A. for direction on 13.07.2007.

*[Signature]*

(V.P. KAMALAMMA)  
Registrar

17.07.2007

None present for the applicant.

D.B. not formed. List the M.A. along with its O.A. on 10.08.2007.

*[Signature]*

(V.P. KAMALAMMA)  
Registrar

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL**

**JODHPUR BENCH, JODHPUR**

**ORDER SHEET**

MISC. APPLICATION NO.....OF 207

Applicant(s) U. O. I. & ors.


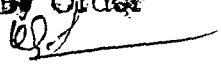
Respondent(s) Keshri Chand Sharma

Advocate for Applicant(s) Mr. V. S. Gurjar

Advocate for Respondent(s)

Applicant(s)

Respondent(s)

Notes of the Registry	Orders of the Tribunal
<p>10-8-07</p>	<p>Mr. Hawa Singh, Adv. Brief holder for Mr. V. S. Gurjar, Adv. for Respondents.</p> <p>D. B. not formed. List the M.A. alongwith the O.A. on 14-9-2007.</p> <p style="text-align: right;">   <b>रजिस्ट्रार</b>  <b>केंद्रीय प्रशासनिक अधिकरण</b>  <b>जोधपुर न्यायपीठ, जोधपुर</b> </p> <p><u>14/09/2007</u></p> <p>Mr. Hawa Singh, <sup>proxy</sup> Counsel for  Mr. V. S. Gurjar, Counsel for applicants.</p> <p>D. B. not formed. List the M.A. for direction on 26/10/2007.</p> <p style="text-align: right;"> By Order    <b>COURT OFFICER</b> </p>

723

Date Of Order : 26.10.2007

MA No. \_\_\_\_ (Def.193/2007) in OA No. 11/2007

Mr. Hawa Singh, Advocate, holding brief of  
Mr. V.S. Gurjar, Advocate, Counsel for applicants, UOI & Ors.

Heard.

In view of the defect/s pointed out by the registry, the  
Verification is not in order in absence of date and place and further that  
the said defect *is by subsequent insertion etc.* cannot be removed. The learned counsel for the  
applicants submits to withdraw the M.A. with liberty to file a fresh one.

Misc. Application is rejected with liberty to file a fresh one, if  
he is so advised.

*R/copy  
m28/11  
A  
C.B. (copy)*

*Tarsem Lal*  
(Tarsem Lal)  
Admy. Member

*A.K. YOG*  
(A.K. YOG)  
Judl. Member

*26/10/07*

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

JODHPUR BENCH, JODHPUR

ORDER SHEET

Misc. APPLICATION NO.....7.....OF 2007 in O.O. 11/2007

Applicant(s) K.C. Sharma

Respondent(s) U.O. 22

Advocate for Applicant(s) Mr. Manoj Shandab

Advocate for Respondent(s)

Notes of the Registry

Orders of the Tribunal

This is a miscellaneous application filed by the petitioner U/s 21 of A.T. Act, 1985 for condonation of delay in filing the O.A. It is a D3 case & pertains to the jurisdiction of Jodhpur Bench.

Extra sets of M.A. for respondents also filed. on scrutiny it has no defects.

So OT Nur 9/1/07

9/1/2007

9/1/2007

Mr. Manoj Shandab Esq., Counsel for the Applicant.

Register. Put up in Court for admission on 15/1/2007, along with O.A.

9/1/2007  
REGISTRAR  
C.A.T. JODHPUR

15-1-07

Mr. Manoj Bhandari, Counsel for applicant.

list the case for

admission on 17-1-07

*[Signature]*

R. R BHANDARI  
Adm. Member

*[Signature]*

J. K. KAUSHIK  
Judl. Member

17/01/2007

Mr. Manoj Bhandari, Counsel for applicant.

Heard.

Issue notice to the respondents  
regarding admission returnable on 14/03/07.  
Notices be sent through speed post/registered A.D.

*[Signature]*

R. R BHANDARI  
Adm. Member

*[Signature]*

J. R. KAUSHIK  
Judl. Member

*Compliance  
made in 18/3  
07  
[Signature]*

14.3.07

Mr. Manoj Bhandari, Counsel for applicant.

Mr. B. Khan Counsel for Res. No. 3704

Notice awarded to Res. No. 2.

Respondent no. 1 notice not received

without signature.

None present for Res. No. 2 despite

due service.

P. B. not formed

file-up along with ~~its~~ on 13.7.07.

By Order

*[Signature]*

COURT OFFICE

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL**

**JODHPUR BENCH, JODHPUR**

**ORDER SHEET**

MISC. APPLICATION NO.....7.....OF 2007 in OA No.11/07

Applicant(s) Keshri Chand Sharma

Respondent(s) U.O.F. & Ors.

Advocate for

Advocate for

Applicant(s)

Respondent(s)

Notes of the Registry	Orders of the Tribunal
	<p><u>04.04.2007</u></p> <p>List the M.A. along with O.A. No.11/2007 before the Bench on 16.04.2007.</p> <p style="text-align: right;">(V.P.KAMALAMMA) Registrar</p> <p><u>16.04.2007</u></p> <p>Mr. Vinay, Advocate brief holder for Mr. Manoj Bhandari, Counsel for applicant. None present for respondents.</p> <p>D.B. not formed. List the <sup>M.A.</sup> <del>case</del> for admission on 25.04.2007, along with the O.A.</p> <p style="text-align: right;">(V.P.KAMALAMMA) Registrar</p> <p><u>25/4/07</u></p> <p>Mr. Vinay Chhipa adv. brief holder for Mr. M. Bhandari, present. Mr. B. Lohan adv. brief holder for Mr. V.S. Chugyal, Counsel for respondents. None for R-S.</p> <p>O.A. Reply filed in the meantime. List on 11/5/2007 along with the</p> <p style="text-align: right;">(M. Rama Chandram) VC(J)</p> <p>R. R. BHANDARI Adm. Member</p>


7/20

MA No. 07/2007 in O.A No. 11/2007  
Date of order: 11.05.2007

MA No. 07/2007 in O.A No. 11/2007  
Date of order: 11.05.2007

Mr. Vinay Chhipa, proxy counsel for  
Mr. Manoj Bhandari, counsel for applicant.  
Mr. V.S. Gurjar, counsel for respondents.

Learned counsel for the applicant submits that he has not received reply to the MA so far. Learned counsel for the respondents is directed to supply a copy of the reply to the opposite side. List the MA on 06.07.2007 for admission along with its OA.

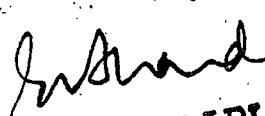
  
[ Tarsem Lal ]  
Administrative Member

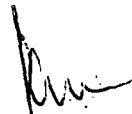
  
[ Kuldip Singh ]  
Vice Chairman

6/7/07

Mr. Manoj Bhandari, Counsel for applicant  
Mr. V.S. Gurjar, Counsel for Respondents

Put up the MA  
along with OA on 10/8/2007


  
**R. R. BHANDARI**  
Adm. Member

  
**KULDIP SINGH**  
Vice Chairman

10-8-07

Mr. Manoj Bhandari, Counsel for applicant  
Mr. Hawa Singh, Adv. Brief holder for  
Mr. V.S. Gurjar, Counsel for Respondents

D.B. not formed - List the M-A.  
along with O.A. on 14-9-2007

  
रजिस्ट्रार  
केन्द्रीय प्रशासनिक अधिकरण  
जोधपुर न्यायपीठ, जोधपुर

Reply not filed  
7/15/07

Reply received  
by post on 7/15/07

# IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

JODHPUR BENCH, JODHPUR

## ORDER SHEET

M APPLICATION NO.....07.....OF 2007 in  
O A No. 11/2007

Applicant(s)

Respondent(s)

Advocate for  
Applicant(s)

Advocate for  
Respondent(s)

Notes of the Registry

Orders of the Tribunal

14/09/2007

Mr. Vinay Chhipa, Proxy Counsel for  
Mr. Manoj Bhandari, Counsel for applicant.  
Mr. Hawa Singh, Proxy Counsel for  
Mr. V.S. Gurjar, Counsel for respondents.

D.B. not formed. List the M.A.  
along with its O.A. on 26/10/2007.

By Order

COURT OFFICER

26.10.2007

MA No. 7/2007 in OA No. 11/2007

Mr. Vinay Chhipa, Advocate, holding brief of  
Mr. Manoj Bhandari, Advocate, counsel for applicant.

Mr. Hawa Singh, Advocate, holding brief of  
Mr. V.S. Gurjar, Advocate, Counsel for respondents.

Heard learned counsel for the parties.

This M.A. 7/2007 is with the prayer to condone the delay in filing the O.A. No. 11/2007, on the ground pleaded in Paras 1 and 2 of the Misc. Application. Applicant therein, contends that he appeared in interview for the post of Chowkidar, on December 22, 2005 and when he heard nothing, he approached 'Legal Services Committee' of Rajasthan High Court, Jaipur, (probably intend to refer to - 'Legal Aid Committee') which referred the matter to the 'School' on December 17, 2006. For the first time, it is contended, that applicant came to know about refusal of appointment inspite of his selection in Nov. 2006.

We find, the reply, filed on behalf of opposite parties, quite vague and evasive inasmuch as there is no denial of 'categorical statement' of the applicant of acquiring knowledge of cancellation of his appointment on 9.11.2006. The applicant has asked diligently and bonafide while pursuing his remedy. The delay if any in filing the O.A. is condoned and the O.A. shall be treated to have been filed in time.

M.A. allowed and disposed of accordingly.

Kanwar Lal  
(Tarseem Lal)  
AM

*[Signature]*  
(A.K. Yogi)  
574

~~SECRET~~

R/C 083  
2/12/12  
            
RCS

R/c  
Diary copy  
17/1/07

Part II and III destroyed  
in my presence on 7/3/15  
under the supervision of  
section officer ( ) as per  
order dated 27/07/2015

*[Signature]*

Section officer (Records)