

5 I/12

**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH**

Original Application No. 165 / 2011 With
Miscellaneous Application No. 94 /2011

Jodhpur, this the 31st January, 2013

[Reserved on 30.1.2013]

CORAM

**Hon'ble Mr. Justice Kailash Chandra Joshi, Member (J) and
Hon'ble Ms. Meenakshi Hooja, Member (A)**

Jeevan Lal S/o Shri Banshi Lal aged about 35 years, resident of Bapu Nagar, Kapasan, District Chittorgarh. The applicant applied for appointment on the post of Helper –A(CM) in Bhabha Atomic Research Centre, but has been denied appointment.

..Applicant

(Through Adv. D.S.Sodha)

Versus

1. The Union of India through the Secretary, Ministry of Atomic Energy, Government of India, New Delhi.
2. The Director, Bhabha Atomic Research Centre, Government of India, Central Complex, Trombay, Mumbai – 400 085.
3. The Assistant Personnel Officer, Personnel Division, Recruitment Section – II, Central Complex, Trombay, Mumbai – 400 085.

..Respondents

(Through Adv. Mr. Vineet Mathur)

ORDER

Per: Justice K.C.Joshi :

The brief facts of the case are that the respondents Bhabha Atomic Research Centre, Bombay, issued an Advertisement inviting applications, inter alia for the appointments as Helper Grade - 'A' (Cosmetic Maintenance) in the pay scale of Rs. 2550-3200. The applicant applied for the said post against the advertised vacancies.

~

2. The case of the applicant is that he was duly considered by the respondents for Group 'D' post of Helper – 'A' and he was also shown in the waiting list of the general category candidates. The applicant received a letter dated 14.07.2008 from the office of the Assistant Personnel Officer, Bhabha Atomic Research Centre directing him to fill-up the 7 sets of attestation forms and five sets of special security questionnaires. The applicant immediately returned the same and after that, the applicant did not receive any information, therefore, he applied under the Right to Information Act for some information. The respondents replied that 62 candidates from the select list of 68 of general (unreserved) category and 21 candidates from the select list of OBC candidates have been appointed against the Advertisement No. 5/2005. No candidate from the waiting list was appointed against the said Advertisement. The process of character & antecedents verification was initiated on 14.07.2008 and during that process the Report of the VI Pay Commission came into force. Consequent upon the implementation of the VI Pay Commission Report, the pay structure was revised and the post of Helper in Group 'D' category was upgraded to Group 'C' and accordingly, the minimum qualification for recruitment to Group 'C' was matriculation. The applicant was originally empanelled in waiting list of general (unreserved) category at Sl. No. 23. Since all the candidates from the select list were not appointed, therefore, this OA has been filed and following reliefs have been sought by the applicant :

“(i) That the Original Application may kindly be allowed.

(ii) That respondents may kindly be directed to give appointment to the applicant on the post of Helper – A (CM) in Bhabha Atomic Research Centre or other constituent units of DAE in pursuance to the advertisement no. 5/2005-R-II;



(iii) That denial of the appointment on the ground that during pendency of the selection process, the minimum qualification for appointment on the post of Helper has undergone a change, may be declared bad in the eye of law as the same cannot take away existing rights of the candidates;

(iv) Any other relief, which this Hon'ble Tribunal deems fit and proper in favour of the applicant, may kindly be granted.

(v) Costs of this application be ordered to be awarded in favour of the applicant"

3. The respondents in their reply averred that the applicant being in the waiting list, has got no right to be appointed on the post in question and without there being any right to the appointment, the OA is liable to be dismissed. The objection regarding the limitation has also been averred in the reply.

4. So far as the limitation is concerned, after considering the entire facts and circumstances of the case, the application for condonation of delay is allowed.

5. Heard the O.A. on merits. The learned counsel for the applicant stated that after having duly qualified in the selection, he has a right to be appointed to the post in question even if his name appears on waiting list; and further he contended that during the pendency of the selection process, the respondents were not right to change the minimum qualification for appointment and thus violated the principles of natural justice.

6. The learned counsel for the respondents contended that the applicant being on the waiting list, has no right to be formally appointed on the post in question. It was vehemently argued by the learned counsel

D/15

for respondents that out of 89 vacancies advertised for the post of Helper – 'A' (CM), [SC-Nil, ST-Nil, OBC-21, UR-68], 62 candidates from the select panel of general (unreserved) and all 21 candidates from the select panel of OBC were appointed before the implementation of recommendation of VI CPC. Remaining 6 candidates (Unreserved) were not issued offer of appointment as their character and antecedents verification was not completed before the implementation of recommendation of VI CPC. None of the candidates from the waiting list (unreserved) was appointed. Thus to the change in the Recruitment Rules, candidates appearing in the waiting list have not been offered appointment. In the premises, the learned counsel for respondents submitted that even if the respondents decide to exhaust the select list, the persons appearing in the merit list and finding place in the select list would have a prior and preferential right to be appointed to the post of Helper 'A' as compared to those in the waiting list like the applicant who is no. 23 in the waiting list.

7. We have heard the learned counsel for both the parties and have perused the pleadings and the documents annexed therewith. We note that mere selection of the applicant and placement of his name in the waiting list does not give a right to him to be invariably appointed on the post of Helper 'A'. It is quite another matter, and we are not concerned with it, that the respondents have changed the eligibility conditions for recruitment after actually preparing the select list and have stopped recruitment of candidates from the select list mid-stream in view of the changed eligibility conditions.

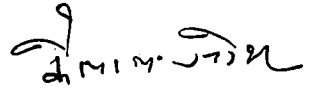
17/16

8. It is the settled position of law that appearing of the name of any person in the waiting list does not give any right for his appointment and the counsel for the applicant failed to show any contrary view. In the circumstances, we do not find any merit in the present application because the applicant has got no right for his appointment from the waiting list.

9. In view of aforesaid observations, the present O.A. stands disposed of with no order as to costs.



(MEENAKSHI HOOJA)
ADMINISTRATIVE MEMBER



(JUSTICE K.C. JOSHI)
JUDICIAL MEMBER

Mehta