

**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH**

Original O.A. No. 14/2013

Jodhpur, this the 08th January, 2014

CORAM :

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

Bhupesh Garg S/o Shri Prahlad Singh aged about 35 years resident of B-64
Pratap Nagar, Jodhpur District Jodhpur.
....Applicant

By Advocate: Mr. Rohitash Singh

Versus

1. Union of India through Secretary, Ministry of Law & Justice, Government of India, New Delhi.
2. Union Public Service Commission through Secretary, Dholpur House, Shahjahan Road, New Delhi.

....Respondents

By Advocate: Ms. K.Parveen for resp. No.1 and Mr. Mahendra Prajapat, proxy for Mr. Ravi Bhansali for resp. No.2

ORDER (Oral)

[PER K.C.JOSHI, JUDICIAL MEMBER]

By way of present application, the applicant has made the following
prayers:-

- a. By an appropriate order or direction, the respondents may kindly be directed to appoint the petitioner on the post of Assistant legislative counsel (Hindi), if he fulfills the necessary criteria/eligibility for selection on the post advertised.
- b. By an appropriate order or direction, the respondents may kindly be directed to remove the Krishan Mohan Arya from the post of Assistant legislative counsel (Hindi),

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- c. By an appropriate order or direction, the respondents may kindly be directed to conduct the enquiry against the authorities who recommended the Krishna Mohan Arya from the post of Assistant legislative counsel (Hindi) without adopting the due process of law.
- d. Any other appropriate order or direction, which this Hon'ble Tribunal may deem just and proper in the facts and circumstances of the case, may kindly be passed in favour of the petitioner.
- e. Application filed by the applicant may kindly be allowed with cost.

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- 2. Brief facts of the case, as stated by the applicant, are that after passing LL.B. examination in the year 2001, he was enrolled as an advocate by the Bar Council of Rajasthan and is in regular practice in Rajasthan High Court and Subordinate Courts. The Union Public Service Commission issued an advertisement No. 20/2010 for the post of Assistant Legislative Counsel. The applicant, having the required qualification for the post advertised, applied for the same and was hoping for the call letter for the selection process. When no call letter was received by the applicant, he sought information under Right to Information Act. The Union Public Service Commission (UPSC) provided incomplete information dated 13.12.2012 (Ann.A/1) informing that Shri Krishna Mohan Arya was recommended, but refused to provide the detail of the applicant in the garb of Section 8(E) and (J) of the Right to Information Act, 2005. The applicant further averred that the UPSC acted arbitrarily and recommended Shri Krishan Mohan Arya. Further, the UPSC failed to adopt the due selection process and has given appointment to his nearer in the garb of the advertisement. The UPSC also failed to disclose the fact as to what procedure was adopted before recommending the name of Shri Krishan

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Mohan Arya and this fact shows that his recommendation was made by the respondent without following the due procedure of law. Therefore, aggrieved by the action of the respondents, the applicant has filed the present OA praying for the reliefs as stated in para-1 above.

3. The respondents by way of filing reply to the OA have submitted that one post of Assistant Legislative Counsel (Hindi) in Legislative Department, Ministry of Law and Justice was advertised. The post was reserved for ↘ Scheduled Caste candidate. It has been further submitted that 69 applications, including that of the applicant, were received against the advertisement and after following the short-listing criteria, 12 candidates were short-listed for interview, which was held in the Commission on 27.9.2011. The applicant (Roll No.44) was not short-listed for interview as he was not meeting the short-listing criteria adopted in this case. While as per the criteria adopted, a candidate with LL. B. Degree was required to have 9 years' experience, the applicant had claimed to have only 8 years' experience. With regard to the contention of the applicant that the UPSC did not intimate him the date of written test or interview and recommended Shri Krishan Mohan Arya without following the due process of law, it is submitted that as per the practice being followed in the Commission, only the short-listed candidates are sent call letters for interview. Candidates whose application are rejected on one or the other ground, are not given any intimation. Therefore, the applicant is not entitled to any relief.

4. Heard both the learned counsel for the parties.

5. The counsel for the applicant contended that the applicant has been denied his right to get an appointment on the post of Assistant Legislative Counsel (Hindi) because his form was found correct in all respects and he was never informed about the short-listing of the candidates as well as the date of the interview or other dates and simply after filing an application under the Right to Information Act, he has been informed that 69 applications were received by the respondent-department. He further contended that the respondent department did not follow the due prescribed procedure and appointed one Mr. Krishan Mohan Arya illegally, therefore, the respondents may be directed to appoint the applicant to the post of Assistant Legislative Counsel (Hindi) and to discontinue the services of Shri Krishan Mohan Arya and further a suitable inquiry be also ordered in the matter.

6. Per contra, the counsel for the respondents contended that Shri Krishan Mohan Arya has not been arrayed as a party. In view of the essential qualifications for the post of Assistant Legislative Counsel (Hindi), the applications were short-listed as per rational and reasonable criteria, as the post advertised was one and the applications were large in number i.e. 69 and the applicant did not find place in the shorted-list candidates and the names of 12 persons were scrutinized by the Union Public Service Commission, out of which, after interview Shri Krishan Mohan Arya was selected. He further contended that the applicant failed to prove the fact that he was more meritorious than Shri Krishan Mohan Arya or a less meritorious person was selected by the respondent-department, therefore, he contended that there is no merit in the OA and the same should be rejected.

7. We have considered the rival contentions put forth by the counsel for both the parties and perused the relevant records.

8. The applicant in his application failed to prove the fact that Shri Krishan Mohan Arya was less meritorious to him and he was appointed wrongfully, or there were any lacunae in the procedure adopted. Accordingly, we find that no case is made-out to quash the appointment of Shri Krishan Mohan Arya and also because he has not been arrayed as a party-respondent in this OA and the respondents cannot be directed to appoint the applicant in his place as Assistant Legislative Counsel (Hindi). Accordingly, the O.A. lacks merit and the same is, therefore, dismissed with no order as to costs.



(Meenakshi Hooja)
Member (A)



(Justice K.C.Joshi)
Member(J)

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