

**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR**

Original Application No. 290/00125/16
with MA No. 85/2016 & 84/2016

Jodhpur, this the 10th November, 2016

CORAM

Hon'ble Ms Praveen Mahajan, Admn. Member

Atul S/o Ajai Pal, aged 23 years, R/o Village-Sankror, Post – Sankror, District – Bhiwani (Haryana). (Hall; Majdoor at No. 224 Adv. Base Ord. Depot, C/o 56 APO).

.....Applicant

By Advocate: Mr S.P. Sharma.

Versus

1. The Union of India through the Secretary, Ministry of Defence, Government of India, Raksha Bhawan, New Delhi.
2. The Commandant, No. 224 Advance Base Depot, Banar Jodhpur, C/o 56 APO.
3. The Administrative Officer, No. 224 Advance Base Depot, Banar Jodhpur, C/o 56 APO.
4. The PCDA (P), Jaipur, Rajasthan.
5. Local Audit Officer (LAO), Banar, Jodhpur.

.....Respondents

By Advocate : Mr K.S. Yadav.

ORDER (Oral)

The present Original Application has been filed U/s 19 of Administrative Tribunals Act, 1985 seeking following reliefs:

- (i) That, by an appropriate order or direction, the original application may kindly be allowed with cost and consequently respondents may kindly be directed to immediately release the

withheld monthly salary of the applicant for the posts of Civil Mazdoor, for the entire period for which he has worked and the withheld salary may kindly be directed to be paid alongwith suitable interest.

- (ii) By an appropriate order or directions, the respondents may kindly be restrained from terminating services of the applicant, on the ground, that sports certificate of the applicant contains ambiguity and respondents, may kindly be directed to verify correctness of the sports certificate and until not to take any action, prejudice to rights of the applicant.
- (iii) Any other relief which this Hon'ble Tribunal deems just and proper in favour of the applicant.

2. The Division Bench of this Tribunal before admitting the OA on 30.05.2016, observed that :

“After hearing the learned counsel appearing on both sides, it appears to us that the main relief sought in this OA (OA 290/00125/16) filed on 19.01.2016 has been granted by the aforementioned payment of Rs 1,71,898/-. We further note that relief No. 2 sought in this OA falls foul of multiplicity of reliefs, which is not permissible under Rule 10, CAT (Procedure) Rules, 1987. Nevertheless, since the pleadings in this OA are complete except for rejoinder, we feel that the matter can be posted for final hearing for which we post the OA on 04.07.2016.”

3. The issue in the present OA in nutshell is that against advertisement dated 11-17 January, 2014 (Annex. A/1) issued by the respondents, the applicant was selected for the post of Majdoor after due recruitment process. The applicant claimed additional benefit of sports category for having certificate of sports of State Level and National Level. On being asked, he submitted all original documents in the office of respondent No. 3. The applicant was issued provisional selection letter dated

18.07.2014 (Annex. A/5). After issuance of this letter, the unsuccessful candidates challenged the selection process in OA No. 290/00396/2014. The selection process was stayed and the applicant was not allowed to join duties. The applicant alongwith other successful candidates filed the OA No. 290/00059/15, wherein vide order dated 17.02.2015, this Tribunal directed the respondents to allow provisional joining to the selected candidates. The applicant joined the duties in response to conditional appointment order dated 23.03.2015 (Annex. A/7) on the post of Mazdoor. However, the applicant was not allowed the due regular salary for the post of Mazdoor and his services were sought to be terminated, which is being challenged in another OA bearing No. 290/00199/2016.

3. Considering observations made by the Division Bench in order sheet dated 30.05.2016, the issue to be adjudicated in the OA is confined to the relief No. 1 only i.e. payment of salary. The respondents have come up with the reply that the applicant was selected against Meritorious Sportsman Quota. The Local Audit Officer, Banar raised the observation that the appointment of the applicant is erroneous in view of OMs dated 04.08.1980 (Annex. R/1) and 04.05.1995 (Annex. R/2) issued by the DoPT. Hence, his Sports Certificates are not valid. Therefore, regular pay is not being sanctioned.

4. The issue in hand in the instant OA is confined only to the payment of salary to the applicant, in lieu of duty performed by him. The merit of issue of termination, in any case, is going to be adjudicated in OA No. 290/00199/2016 filed by the applicant. Vide interim order dated 18.10.2016, this Tribunal directed the respondents to pay the salary till the month of the September, 2016 not later than 30th October, 2016.

5. During course of the arguments today, Ld. counsel for applicant informed the Court that the applicant has not been paid salary upto September, 2016 despite passing of interim order by this Tribunal.

6. Ld. counsel for respondents informed that sanction of the competent authority for payment of the salary to the applicant upto September, 2016 has been received. He further submitted that after payment of salary till the date of disposal of the present OA, this OA becomes infructuous in light of relief sought. He made a statement at Bar that the respondents are willing to pay him salary till today, if the issue is set to rest.

① 7. I have considered the submissions made by both the counsels. However, merit of the issue of termination of the services of the applicant cannot be adjudicated in the present OA. However, while going through the reply it can be inferred that it is not the case of the respondents that the applicant got selected by giving any fake documents or misrepresenting any document.

The respondents appointed him after observing due process. The issue to be adjudicated in the present case is restricted to the payment of salary and the respondents cannot absolve their responsibility to pay him salary till the day he works, irrespective of the outcome of OA No. 290/00199/2016 challenging his termination. Therefore, looking to the entire facts and circumstances of the case, I direct the respondents to pay the applicant his due pay, after 10 days of raising of regular salary bills of each month, till the main issue is decided in OA No. 290/00199/2016.

8. In terms of above direction, OA and MAs are disposed of.
No costs.


[Praveen Mahajan]
Administrative Member

Ss/-

Atue

RC
6/11/16