

CENTRAL ADMINISTRATIVE TRIBUNAL LUCKNOW BENCH  
LUCKNOW

(12)  
ORIGINAL APPLICATION NO: 13 OF 2005

THIS THE <sup>6<sup>th</sup></sup> DAY OF ~~DECEMBER~~ FEBRUARY 2005

**HON'BLE SHRI JUSTICE M.A. KHAN, VICE CHAIRMAN**  
**HON'BLE SHRI S.P. ARYA MEMBER (A)**

Sandeep Kumar Jhaldiyal, aged about 28 years, son of Shri S.P. Jhaldiyal, resident of 4/3, Havelock line, Lal Bahadur Shastri Marg, Post Office Dilkusha, Lucknow Cantt-226002

Applicant.

By Advocate: Shri R.C. Singh.

**VERSUS**

1. Union of India, through the Secretary, Ministry of Defence, New Delhi-110001.
2. Director General of Supplies and Transport, Quartermaster General's Branch (ST-8), Army Headquarters, P-11, Havelock Lines, Lucknow Road, Timarpur, Delhi-110054.
3. Composite Food Laboratory (A.S.C), P-11, Ground Floor, Havelock Lines, Lucknow Road, Timarpur, Delhi-110054, through its Commanding Officer.

Respondents

BY Advocate: Shri Deepak Shukla for Shri Prashant Kumar.

**ORDER**

**BY HON'BLE SHRI JUSTICE M.A. KHAN V.C.**

1. The applicant has filed this O.A. for issue of direction to the respondents to consider his case for appointment to the post of Senior Laboratory Assistant (SLA) against the existing vacancy in the establishment of respondent No. 3 on the basis of advertisement issued in Employment News for the week 31<sup>st</sup> July to 6<sup>th</sup> August 1999 (Annexure No. A-1) in accordance with the O.M. No. 22011/2/79-Estt.(D) dated 08.02.1982 and not to proceed with fresh selection to the post of SLA in pursuante to the advertisement dated 27<sup>th</sup> November/3.12.2004 until the

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applicant is appointed to the post on the basis of earlier selection process.

2. Briefly stated the facts are that an advertisement was issued by Composite Food Laboratory of the respondents for recruitment to the post of Senior Laboratory Assistants, 3 posts of unreserved category and one post of OBC category. It was published in Employment News on 31<sup>st</sup> July to 6<sup>th</sup> August 1999 . The applicant submitted his application. He appeared in the written examination thereafter, all other formalities regarding Medical Verification, Police Verification of Character, and Verification of his Original Educational Qualification etc. were carried out and four persons including the applicant were selected. But appointment letters were not issued to the applicant and other selected persons . Instead the respondents have issued a fresh advertisement in the Employment News on 27<sup>th</sup> November to 3<sup>rd</sup> December 2004 for appointment against two vacancies of SLAs. The applicant is aggrieved and had filed the present O.A.
3. The respondents in their counter reply have admitted that the applicant along with three other candidates was selected but the selected candidates have not been given appointment as yet. Their case is that the appointment letters could not be issued to the selected candidates due to information regarding anticipated reduction in the Scientific Manpower of Composite Food Laboratory/Food Inspection Unit and later on, it was clarified by AG MP-4(Civ) (b) that Junior Laboratory

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Attendant with at least five years regular service should have been considered for the post of Senior Para Laboratory Assistant. Since the said post was a promotional post so any direct recruitment if made would have been irregular and in violation of rules and regulations. A reply to AG/MP-4 (Civ) (b) was sent that direct recruitment of SLA could be done as per recruitment rules as no Junior Laboratory Attendant was available at that time for promotion. As per SRO 324 of 2<sup>nd</sup> November 78 recruitment of SLA could be made by promotion failing which by transfer and failing both by direct recruitment. Release of posts of Laboratory Assistants was also considered against SLA based on the fact that no posts for the appointment of Laboratory Assistant existed in Food Inspection Organisation and also since Projection for filling up the posts of Senior Par Laboratory Assistant was made by the department. At a result, the issuance of appointment letter to the select **panel** candidates were held in abeyance, as peace Establishment of the Composite Food Laboratory/Food Inspection Unit have since been reviewed and are now revised. There is no post of Junior Laboratory Assistant in the revised peace establishment; therefore, direct recruitment of Senior Laboratory Assistant could be made. Thereafter, AG/MP-4 suggested that the case be taken up with the Ministry of Defence through MP-4 (Civ) (a) for release of five Senior Para Laboratory Assistant Vacancies in lieu of five Laboratory Assistants vacancies

*M. A. S. Rao*

released earlier in 1996/97 in relaxation of ban orders and finalise recruitment rules for Senior Para Laboratory Assistant incorporating direct recruitment mode against promotional transfer mode. As such the case of release of four Senior Para Laboratory posts in lieu of four Laboratory Assistants Posts has been taken up with MOD/D (Appts) through Army Head Quarter and AG/MP-4 (Civ) (a) in September, 2003. Subsequently, AG/MP-4 has intimated on 23<sup>rd</sup> December, 2004 that the case has been forwarded to Director AG/ MP for consideration. As the case regarding release of four Senior Para Laboratory Assistant Posts is still not finalised shortage of scientific manpower in Composite Food Laboratory/Food Inspection Unit is hampering their smooth functioning. The AG/MP-4 (Civ) (a) has released two fresh Group 'C' posts of scientific staff against Annual Direct Recruitment Plan (ADRP) 2000-01 and 2001-2002 for filling up existing vacancies. Therefore Composite Food Laboratory, ASC, Delhi has issued fresh advertisement in Employment News for week 27<sup>th</sup> November to 03 December 2004, for two Group 'C' post of Senior Para Laboratory Assistant out of which one post is reserved for OBC and one post for SC candidate. It is further submitted that as the case for release of four Senior Para Laboratory Assistant Posts is still under consideration, select panel candidates of earlier advertisement have not been issued the appointment letter.

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4. We have heard the learned counsel for the parties and perused the record.

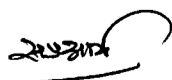
5. It is fairly conceded by the respondents that the earlier selection process and the select panel has not been cancelled by the respondents authority and the appointment of the applicant as SLA on the basis of earlier selection is still under consideration and no decision has been taken. It has not been denied by him that one of the three posts earlier advertised belonged to OBC category. He could not explain the reasons as to why second selection process was started when the decision on earlier select panel was under consideration.

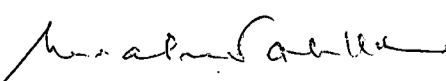
6. It is also admitted by the learned counsel for the applicant that the applicant does not have a vested legal right to the appointment against the vacancies of SLAs simply on the basis of his being on the select panel. But his argument is when the earlier selection has not been cancelled and the appointment of candidates on select panel is still under consideration there is no justification for the respondents to have started a new selection process before that matter was decided. Conversely, learned counsel for respondents has submitted that this selection process was started for filling up vacancies which were reserved for S.C. and O.B.C categories.

7. Having regard to the facts stated in the counter affidavit that the release of four vacancies for appointment of the applicant is under the active consideration of the respondents, Ministry and other authorities, it was suggested and we agreed that the respondents should be directed to take a decision in the matter within the time fixed by the Tribunal and in case the vacancies become available, the respondents should consider the appointment of the applicant and others selected candidates in earlier selection process against those vacancies before they decide to appoint any candidate selected in the subsequent selection.

8. Accordingly, we dispose of this OA with a direction to the respondents to take a decision on the release of the vacancies in the post of SLA/Senior Para Medical Assistant within a period of three months and in case, the vacancies become available consider the case of the applicant for appointment along with other selected candidate in pursuance to the advertisement issued in the Employment News for the week 31<sup>st</sup> July, to 6<sup>th</sup> August 1999 within next two months. Until this exercise is done, the respondents shall not make appointment to the vacancies of SLAs in terms of advertisement issued in Employment News in the Week 27<sup>th</sup> November to 3<sup>rd</sup> December, 2004.

9. The OA stands disposed of in above terms without any order as to costs.

  
(S.P. Arya)  
Member (A)

  
(M.A. Khan)  
Vice Chairman (J)