

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PATNA BENCH, PATNA

O.A. No. 290 of 2006

Date of order : 20.7.10

C O R A M

Hon'ble Mrs. Justice Rekha Kumari, Member [J]
Hon'ble Mr. Sudhir Kumar, Member [A]

Madhu Mala Kumari, D/o Shri Birju Kumar, registry office, Danapur, P.O./ P.S –
Digha, Patna, r/o SBI colony, quarter No. 28, Chitrakoot Nagar, Danapur, Patna.

....Applicant

By Advocate : Shri M.P. Dixit

Vs.

1. The Union of India through the Secretary, Ministry of Defence, Government of India, New Delhi.
2. The Chief Engineer, [H.Q] Central Command, Military Engineering Service Department, Lucknow Cantt -02.
3. The Chief Engineer [A/F], Allahabad.
4. The S.E., Director for C.E [A/F], Allahabad.

....Respondents

2.

By Advocate : Shri Amitabh Pandey

O R D E R

Justice Rekha Kumari, M [J]:- The applicant initially filed this OA for giving direction to the respondents for publishing the result of the examination conducted for the post of Junior clerk and to give her appointment letter if found successful with all consequential benefits.

2. Subsequently, after filing of the written statement by the respondents, she had prayed for quashing the order of cancellation of the

recruitment process contained in Annexure R/1, R/7, R/8 and R/9.

3. The case of the applicant is that under the special drive for SC/ST quota, the respondents issued a notification vide Employment Notice No. CECC / Special Drive SC / ST / 2004-05 [Annexure A/1] for filling up the various vacancies , including the posts of LDC. She applied for the post of LDC. She received admit card [Annexure A/2] and appeared at the written statement held from 16.5.2005 to 18.05.2005. She did well in the examination. The result, however, was not published. She, hence, sent representation but could get no reply, and as such, she was compelled to file the OA.

4. The respondents in their written statement did not deny the above facts, but their case is that the CECC , Lucknow , after written examination, cancelled the recruitment process as no back log vacancy for recruitment was available. Hence, the question of declaring the result did not arise.

5. The applicant, in her rejoinder to the written statement, has stated that the respondents subsequently have published another notification [Annexure P/1] for LDC in which five posts of SCs and three posts for STs have been earmarked, and this shows that there were vacancies available in the category of LDC, and it is not correct to say that there was no vacancy , compelling the authority to cancel the recruitment process.

6.. The learned counsel for both the sides were heard.

7. It is an admitted position that there was an advertisement for inviting the application for recruitment in Group 'C' and 'D' posts in the Military

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Engineering Service against the Special Drive for filling up the back log vacancies for SC / ST for 2004 -05. It is also not denied that the applicant had applied for the post of LDC and then appeared at the written examination. But it appears from the letter of the Chief Engineer, Headquarters, Central Command, Lucknow dated 19.9.2005 [Annexure R/9] that as there was no back log vacancies available for special recruitment drive, the recruitment process was cancelled, and accordingly, the advertisement for cancellation was published [Annexure R/1 and R/8].

8. So, when for non-availability of post the recruitment process was cancelled, the cancellation was bonafide and does not warrant any judicial review. Only because the applicant had appeared in the examination, that also did not confer any right on her for being appointed.

9. As regards the subsequent notification [Annexure P/1], calling for application for filling up the posts of LDC, though the notification shows that five posts of SCs and three posts of STs are earmarked therein, but notification does not show that the vacancies therein included the back log vacancies for SCs / STs of the year 2004 – 05. So, only because on account of regular vacancies , subsequent notification has been issued, it cannot be said that the order of cancellation was wrong. Besides this, the vacancies in respect of earlier notification [Annexure A/1] where in respect of vacancies occurred under the Chief Engineer , Central Command, Lucknow , whereas the vacancies in respect of subsequent notification are in respect of H.Q. Chief Engineer [Air Force,

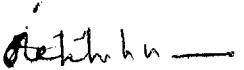
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Allahabad]. So on this ground also, it cannot be said that there were vacancies for recruitment.

10. In view of the above discussion, there appears no merit in the OA. The OA is, accordingly, dismissed. No order as to costs.



[Sudhir Kumar] M [A]



[Rekha Kumari] M [J]

/cbs/