

**CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH
ORIGINAL APPLICATION NO: 508/2001
DATED THE 20TH FEB, 2002**

CORAM: HON'BLE SHRI JUSTICE ASHOK AGARWAL, CHAIRMAN
HON'BLE SMT. SHANTA SHAstry, MEMBER(A)

By Advocate Ms.Ekta for
Shri G.S.Walia

... Applicant

v/s.

1. Union of India, through
Director,
Directorate of Marine
Engineering Training,
P-19, Taratala Road,
Calcutta - 88.
 2. Dy. Director,
Marine Engineering &
Research Institute
Hay Bunder Road,
Mumbai - 400 023.

By Advocate Shri R.R.Shetty

(ORAL) (ORDER)

Per Smt. Shanta Shastray, Member(A)

The applicant an ex-serviceman was offered the post of Hostel Warden in the Marine Engineering & Research Institute, Mumbai on adhoc basis vide letter dated 10/8/93 and was subsequently continued till 4/10/99. A selection was held for filling up of the post of Hostel Warden on a regular basis. The applicant also was called for the interview on 27/2/2001 for the said post. After the interview, the selection was finalised and the applicant was placed at No.6

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in the select panel. The No.1 in the panel was offered the appointment. According to the applicant the person who was offered the appointment joined the post and worked only for one day and did not resume his duties. The applicant has approached this Tribunal with a prayer to direct the respondents to appoint him as Hostel Warden in the post vacated by the earlier incumbent. According to the applicant since he had worked on adhoc basis for almost more than six years, he was entitled to be considered for the same.

2. The respondents have filed a reply. They submit that the respondents had to call the second candidate in the merit list who had already accepted the offer of appointment and he joined duty on 29/1/2001 and this being a regular appointment on long term basis there is no case for even an adhoc appointment against the vacancy which arose on account of the non assumption of duty by the person who had ranked first in the merit list.

3. The learned counsel for the applicant argued that the applicant did not know that the vacancy had been filled up by the person ranking second in the merit list. However, now in view of the reply of the respondents, the learned counsel contends that respondents' action is not in order. Once the post was filled up on a regular basis after the quitting of the post by the first incumbent, the earlier panel can no longer be implemented. A fresh selection is required to be held. This being the position, the applicant prays to set aside the appointment of the person ranked second in merit list. However, the applicant has not made

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the present incumbent a party to this OA. There is no pleading to that effect in the OA.

4. In view of this, the OA cannot be maintained for the prayer now being pressed by the applicant. The learned counsel for the applicant wants to withdraw the OA. The same is permitted subject to liberty being granted to file a fresh OA on the same cause of action. Accordingly OA is dismissed as withdrawn.

Shanta S
(SMT. SHANTA SHAstry)
MEMBER(A)

ASHOK AGARWAL
CHAIRMAN

abp

order/Judg sent despatched
to Applicant/Respondent(s)
on 4/3/2002

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