

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

Original Application No: 464 OF 1994.

Date of Decision: July 02, 1999.

M. Kannabiran,

Applicant.

In Person.

Advocate for
Applicant.

Versus

Union Of India & Others,

Respondent(s)

Shri R. R. Shetty for
Shri R. K. Shetty,

Advocate for
Respondent(s)

CORAM:

Hon'ble Shri. Justice R. G. Vaidyanatha, Vice-Chairman.

Hon'ble Shri. D. S. Baweja, Member (A).

- (1) To be referred to the Reporter or not? *✓*
- (2) Whether it needs to be circulated to *No* other Benches of the Tribunal?

R. G. Vaidyanatha
(R. G. VAIDYANATHA)
VICE-CHAIRMAN.

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CENTRAL ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH

ORIGINAL APPLICATION NO.: 464 OF 1994.

Dated this Friday, the 2nd day of July, 1999.

CORAM : HON'BLE SHRI JUSTICE R. G. VAIDYANATHA,
VICE-CHAIRMAN.

HON'BLE SHRI D. S. BAWEJA, MEMBER (A).

M. Kannabiran,
Residing at -
C/o. Qtr. No. 1/4,
Defence Civilian Quarters,
Lullanagar,
Pune - 411 040.

... Applicant

(Applicant in person)

VERSUS

1. Commandant,
Artificial Limb Centre,
Ministry of Defence,
Government of India,
Pune - 411 040.
2. Director General,
Armed Forces Medical Services,
D.H.Q. Ministry of Defence,
Government of India,
New Delhi.
3. Union Of India,
Summons to be served on
Secretary,
Ministry of Defence,
Government of India,
D.H.Q., New Delhi.
4. Shri S. Surjit Singh,
Limb Fitter,
Post Box No. 1506,
Artificial Limb Centre,
Pune - 411 040.
5. Shri Saikh Aziz Eliyaz,
Leading Hand Technical,
Post Box No. 1506,
Artificial Limb Centre,
Pune - 411 040.
6. Shri K. Sekar,
Limb Fitter,
P.O. Box No. 1506,
Artificial Limb Centre,
Pune - 411 040. ... Respondents.

(By Advocate Shri R. R. Shetty
for Shri R. K. Shetty).

OPEN COURT ORDER

PER.: SHRI JUSTICE R. G. VAIDYANATHA, VICE-CHAIRMAN.

In this application the applicant is challenging his non-selection for promotion and the promotion of Respondent Nos. 4 to 6 in the post of Limb Fitter and Leading Hand Technical in the Artificial Limb Centre at Pune. The respondents have filed reply opposing the application. We have heard the applicant who appeared in person and Shri R. R. Shetty on behalf of Shri R. K. Shetty, Counsel for the respondents. We have perused the entire case papers and the original D.P.C. proceedings which are now placed before us by the Learned Counsel for the respondents.

2. The applicant's grievance is that he was due for promotion to the post of either Limb Fitter or Leading Hand Technical. He had all necessary qualifications and experience. He was senior to respondent No. 4. His grievance is that his junior, Respondent No. 4, S. Surjit Singh, has been appointed to one of the promotional post. His further grievance is that the constitution of the D.P.C. was illegal. Then on merits his contention is that he has better qualifications and he had done well both in the written examination, practical examination and the interview but still he has not been selected. He has, therefore, challenged his non-selection and selection of Respondent Nos. 4 to 6.

3. The respondents in their reply have stated that the applicant is junior to all the respondent Nos. 4 to 6. Their further contention is that this is a

selection post and selection has been done purely on the basis of merit after holding written examination, practical examination and viva-voce. They also say that the constitution of the D.P.C. is perfectly valid and as per rules.

4. At the time of argument, the applicant still maintained that he is senior to Respondent No. 4 but as could be seen from the records, the applicant's appointment was on 01.05.1982 whereas the Respondent No. 4, S. Surjit Singh, got promotion to the same cadre on 21.01.1982. Since the respondent no. 4 was promoted on 21.01.1982, he will become senior to the applicant who came to that cadre on 01.05.1982. Even otherwise, in our view, the question of seniority is not very relevant since it is a selection post and selection has been based on merit, namely - the marks obtained by all the candidates within the zone of consideration.

5. The Learned Counsel for the respondents has placed before us the D.P.C. proceedings. In the case of selection to the post of Leading Hand Technical, we find that there were nine candidates including the applicant and Respondent Nos. 4 to 6. On the basis of the total marks obtained by them, on the basis of oral interview, theory papers and practical examination, only one candidate was selected, namely - the Respondent No. 5, S.E. Aziz, who got 90 marks. The applicant got only 76 marks. We also find that many other candidates got lower marks like 56, 54, 52, etc. Therefore, purely on the basis of merit Shri S. E. Aziz, Respondent No. 5, has been selected and the applicant has failed in the selection.

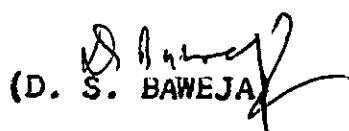


6. Now coming to the selection of two candidates in the post of Limb Fitter we find that there were as many as 14 candidates including the applicant and Respondent Nos. 4 to 6. Only two candidates were selected, namely - Respondent No. 4, S. Surjit Singh and Respondent No. 6, K. Sekar, on the basis of merit. Shri K. Sekar got 98 marks and Shri S. Surjit Singh got 92 marks, whereas the applicant got 87 marks. We find that the other candidates got very less marks like 53, 64, 57, 45, 55, etc. This clearly shows that the D.P.C. has given marks objectively and there is no question of victimization of the applicant, as alleged by the applicant. The applicant had got ^{good} 90 marks though in the total tally persons who got very good marks were selected. Since we have perused the original records and find that Respondent Nos. 4 to 6 have been selected on the basis of merits, we cannot interfere with the impugned selection.

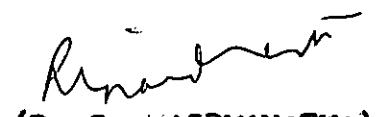
The further allegation of the applicant is that the D.P.C. was not properly constituted and the one that was constituted was illegal. Inspite of our repeated questioning, the applicant was not able to point out as to how the constitution of the D.P.C. was illegal as per any particular rule. Another allegation of the applicant is that one of the members of the Committee should be from outside. We have seen the D.P.C. proceedings and the allegations in the application. We find that the D.P.C. is properly constituted as per S.R.O. 118 and 119. The D.P.C. must consist of either Commandant or Deputy Commandant as Chairman, Officer-in-Charge of the Workshop as Member and another member to be detailed by the Commandant.

In the present case, Col. S. K. Jain, has acted as a Chairman being the Deputy Commandant and officiating for the Commandant, then Lt. Col. V. R. Gattu is another Member who was associated as a Member by the Commandant. Then Captain K. Vijayan was taken as a Member who was the officiating Officer-in-Charge of the Workshop in the department where the candidates were working. We are, therefore, satisfied that the constitution of the D.P.C. was strictly valid and as per rules and the selection has been made as per merits. Hence, no ground is made out for interfering with the impugned selection. No other argument was pressed before us.

7. In the result, the application fails and is accordingly dismissed. No order as to costs.


(D. S. BAWEJA)

MEMBER (A).


(R. G. VAIDYANATHA)

VICE-CHAIRMAN.

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