

(11)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH  
JAIPUR.

O.A.No.697/92

Dt. of order: 12.11.93

Harendra Singh

: Applicant

Vs.

Union of India & Ors. : Respondents

Mr.P.V.Calla : Counsel for applicant

None present for the respondents.

CORAM:

Hon'ble Mr.Justice D.L.Mehta, Vice Chairman

Hon'ble Mr.O.P.Sharma, Member (Adm.).

PER HON'BLE MR.JUSTICE D.L.MEHTA, VICE CHAIRMAN.

Heard the learned counsel for the applicant.

None present on behalf of the respondents. The respondents have also not filed the reply. Applicant was in the employment of the Army (Rajputana Rifles).

On 22.6.1985, an advertisement was issued by the respondents for the posts of Inspector in Central Excise and Income Tax Departments. The applicant submitted his application on 23.7.85 alongwith Anxx.

A-3 dated 22.7.85 and submitted that his discharge from the Army has been sanctioned but he will be released/discharged from service within two months.

After considering this certificate Anxx.A-3, the applicant was allowed to appear in the examination. The written test was held on 22.12.85 and at that time the applicant was already discharged from the Army. He was called for an interview on 11.9.1986 as he succeeded in the written test which was held on 22.12.85.

2. On the basis of the said examination a consent was sought from the applicant whether he will be willing to work as Narcotics Inspector as his third option and he given the third option also. Thereafter, the result was declared and the applicant was declared

(12)

as successful. However, vide Annexure A-8 dated 11/16.12.86, the respondents intimated the applicant that according to Govt. orders, a person discharged from Army at his own request should have acquired the status of ex-serviceman at the time of submitting application for the examination for which he seeks to claim benefits admissible to an ex-serviceman. Since he has been discharged at his own request after submitting application for I.I.T.etc. Exam. 1985, he is not entitled to the benefits admissible to the ex-serviceman for this examination. Since he is over age according to age limits prescribed for general category candidates, he cannot also be considered against vacancies for general category candidates. He submitted the representation which was rejected vide Anxx.A-12 dated 17.2.87. Thereafter, the applicant moved this O.A. and has raised some questions of law.

3. The applicant submits that vide Anxx.A-3, his discharge was sanctioned and he should be deemed to have <sup>been</sup> discharged from the date his discharge was sanctioned though he was not released. He further submits that he <sup>had</sup> submitted his application on 23.7.85 whereas his discharge was sanctioned on 22.7.85. As such he should be deemed to be a discharged personnel. The second limb of the argument is that the doctrine of promissory estoppel will play. The respondents have completed all the formalities on the basis of <sup>which</sup> discharge has been sanctioned and the respondents allowed him to appear in the examination knowing that he has not been relieved on the date of submission of the application. The third submission is that the applicant has appeared in the examination after he was released and after the written examination and *viva voce* he was also asked to give his third option

(B)

on the post of Narcotics Inspector. Thus the doctrine of promissory estoppel will also play for this reasons. He further prays that the order Annx.A-8 appendix-'E' dated 11/16.12.86 be quashed.

4. We have heard the learned counsel for the applicant and perused the record. As far as the release <sup>rules</sup> are concerned, there is none to assist on behalf of the respondents and the notification inviting the application is also not available.

5. The doctrine of promissory estoppel may apply in the instant case as the applicant has not concealed anything. He submitted Annx.A-3, the certificate issued by the Army Officer, that his discharge has been sanctioned but he will be relieved after a period of two months. On the basis of this certificate, the respondents treated him as a person equivalent to the discharged person and allowed him to appear in the examination. Not only he was allowed to appear in the examination but after successfully passing the examination he was also asked to appear in the interview. He was also asked to submit his third option for the post of Narcotics Inspector. For these reasons the doctrine of promissory estoppel play. The applicant has succeeded in the examination, therefore, he is entitled for the benefit of the result declared in his favour and he cannot be disallowed only on the ground that his status of ex-serviceman was not complete on the date of completion of the application though it was completed on the date of the examination. The respondents therefore cannot refuse the benefit of concession available to an ex-serviceman in the matter of relaxation of age.

(M)

5. In the result, we accept the O.A. and set aside Annx.A-8 (Appendix-E) dated 11/16.12.86. We direct the respondents to give the appointment to the applicant under the list or panel prepared and declared of the examination conducted in 1985 and the results declared in 1986. We further direct that the appointment will be notional and the applicant shall not be entitled for any back wages. However, his services will be counted <sup>from</sup> for the date other similarly situated persons were appointed and his seniority shall be protected. regulated accordingly.

7. The O.A. is disposed of accordingly. Parties to bear their own costs.

(O.P.Sharma)  
Member(A)

*D.L.Mehta*  
D.L.Mehta  
Vice Chairman.