

CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR

ORIGINAL APPLICATION NO. 291/00348/2014

ORDER RESERVED ON: 21.07.2016

DATE OF ORDER: 22.07.2016

CORAM

**HON'BLE MRS. JASMINE AHMED, JUDICIAL MEMBER
HON'BLE MS. MEENAKSHI HOOJA, ADMINISTRATIVE MEMBER**

Rohit Sharma, aged about 34 years, S/o Shri Ganga Sahai Sharma, by caste Brahmin, R/o 64, Natraj Nagar, Imliwala Phatak, Jaipur (Rajasthan).

....Applicant

Mr. B. M. Singh, counsel for applicant.

VERSUS

1. Union of India through its Secretary / Director General, Post & Telegraph Department, Sanchar Bhawan, New Delhi.
2. The Chief Post Master General, Post & Telegraph Department, Govt. of India, Rajasthan Circle, Jaipur (Raj.).
3. The Assistant Post Master General (Staff & Vigilance) for Chief Post Master General, Post & Telegraph Department, Government of India, Rajasthan Circle, Jaipur (Raj.).

....Respondents

Mr. N.C. Goyal, counsel for respondents.

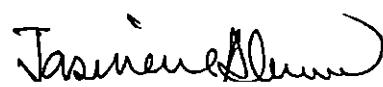
ORDER

(Per MRS. JASMINE AHMED, JUDICIAL MEMBER)

This Original Application has been filed by the applicant under Section 19 of the Administrative Tribunals Act, 1985 in which the applicant is seeking the following reliefs:

"(i). Issue an appropriate writ, order or direction declaring action of respondents in declining selection to the applicant while issuing select list (Ann-A/1) with regard to other lesser meritorious candidates than applicant, to be wholly illegal, unreasonable, unjustified and unconstitutional;

(ii) By an appropriate writ, order or directions in view of his performance in cricket teams played so far, the applicant



be declared as entitled & eligible for his selection / appointment to post advertised under Annexure-1;

- (iii) By an appropriate writ, order or direction, quash/set aside select list Annexure-5 issued by respondents; further, to quash entire select process carried out so far by the respondents in pursuance to the advertisement Annexure A/2.
- (iv) Issue an appropriate writ order or direction thereby holding an impartial enquiry in matter regarding selection of lesser meritorious candidates than applicant, recall/cancel recommendation of selection Committee issued on 17.5.2010 for said appointment;
- (v) By an appropriate writ, order or directions, in the event of not canceling the select list Ann-5, issue appointment letter in favour of applicant prior to issuance of any such appointment letter in pursuance to the select list Annexure A/1 the applicant being meritorious in comparison to the candidates of the select list;
- (vi) Issue such other writ, order or directions as may be deemed just and proper by this Hon'ble Court in the facts and circumstances of the case and in favour of the humble applicant;
- (vii) Cost of the Application may kindly be awarded in favour of the applicant from the respondents;
- (viii) Any other relief which may this Hon'ble Tribunal may deem fit."

2. The brief facts of the case as stated by the applicant are that the respondents issued notification dated 12.10.2009 for filling up of 09 posts of Postal Assistant /Sorting Assistant in the department of posts in the category of sports quota from the candidates who have meritorious in Cricket, Table Tennis, Chess and Athletics. In this notification 04 posts were reserved for Cricket players, two posts for Table Tennis players, two posts for Chess players and one post for Athletics players were reserved. In the column no. 3 of this advertisement, in 'note' portion, it was mentioned that 'in the case of equal merit, priority will be given to those candidates who are having more medals and higher position'. Learned counsel for the applicant states that as

Tasmine Alum

per this notification, the applicant submitted all his certificates but the applicant has not been given appointment and the candidates lower in merits having played lesser number of games have been given appointment. Counsel for the applicant also states that the respondents have not given him the numbers for participating in Devdhar Trophy in 2007 and because of that his calculation in number has become less and he has been deprived of the job for which he was very much entitled to get. Counsel for the applicant states that while submitting the form for appointment, he has submitted his curriculum vitae wherein he categorically stated in the category of achievement that he has participated in Devdhar Trophy in 2007 and he was member of Winning Team. Counsel for the applicant says that after submitting of his application form, he was called by letter dated 26.04.2010 for cricket trial in the process of selection in the sports category on 13.05.2007 at 07.00 AM in the Athletics Ground of Rajasthan University Campus along with his cricket kit and also he was to bring medical fitness certificate. Counsel for the applicant states that despite completing all the formalities, the respondents have not offered appointment to the applicant but appointed other candidates who have played lesser cricket than the applicant.

3. Learned counsel for the respondents states that though the applicant has written in his curriculum vitae that he has participated in Devdhar Trophy in 2007 but he has not attached any certificate of the Devdhar Trophy and/or any documents from which it can be proved that he has played Devdhar Trophy. Counsel for the respondents states that as there was no

Tanmoy Debnath

certificate in regard to Devdhar Trophy in respect of the applicant, therefore, the respondents could not grant him any marks / numbers for Devdhar Trophy and other candidates who have produced all the certificate have been given marks /numbers as per certificates produced by them. He also stated that a proper committee was formed by the department and the marks were given as per the submission of documents. Counsel for the respondents states that even the applicant has not attached copy of participating in Devdhar Trophy. Hence, it cannot be said by the counsel for the applicant that the applicant has been given lesser marks / number in arbitrary manner by the respondents.

4. Heard the rival contentions of the learned counsels for the parties and perused the pleadings and documents available on record.

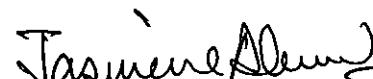
5. While perusing the documents, we found that nowhere in the entire OA, the applicant has filed any documents in regard to his participation in Devdhar Trophy. The applicant was called for cricket trial and for other formalities. He also came to know that he could not secure appointment because of getting lesser marks. The entire selection process has taken place in the year 2010 now today counsel for the applicant has handed over the certificate issued by the Rajasthan Cricket Association wherein it has been shown that the applicant has taken place in Devdhar Trophy. The advertisement/notification is dated 12.10.2009 and today we are in the year 2016 i.e. almost 07 years have passed from the date of advertisement and the age which was

Tasnim Ahmed

prescribed for the candidates for general category was between 18 to 25, hence, by this time the applicant has been over aged for the post for which notification was issued. It is also seen that though the applicant has stated that other persons who were lesser in merit have been given appointment ignoring his claim for getting appointment but we find that the counsel for the applicant has not made any of them party-respondent. In absence of making them party-respondent against which alleged claim has been prejudiced, it will be treated as mis-joinder of parties. It is also seen that even the applicant has not filed any certificate in regard to his participation in Devdhar Trophy by rejoinder also.

6. Taking into consideration of the facts and circumstances of the case, we feel that as proper committee was constituted for appointment, the Court/Tribunal should not interfere in the selection process especially when the applicant could not produced the certificate of participation in the Devdhar Trophy. Accordingly, in the circumstances of the case, we do not feel that any interference is needed at this point of time. Hence, the Original Application is dismissed. No order as to costs.


(MS. MEENAKSHI HOOJA)
ADMINISTRATIVE MEMBER


(MRS. JASMINE AHMED)
JUDICIAL MEMBER

kumawat