

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR

ORIGINAL APPLICATION NO.291/00372/2015

Date of Order: 03-07-2015

CORAM

Hon'ble Mr. Justice Harun-Ul-Rashid, Judicial Member
Hon'ble Mrs. Ranjana Chowdhary, Administrative Member

Hemant Kumar son of Shri Prem Chand Jatav, aged 35 years, House No.392A/27, Isai Mohalla, Hazari Bagh, Ajmer, Rajasthan.

.....Applicant

(By Advocate Mr. Bharat Singh)

VERSUS

1. The Union of India, through the Under Secretary, Department of Atomic Energy, Government of India, Anushakti Bhawan, CMS Marg, Mumbai-400001.
2. The Director, Atomic Energy Directorate for Exploration and Research, Office 1-10-153/156, AMD Complex, Begampet, Hyderabad, Andhra Pradesh.
3. The Assistant Personnel Officer, Atomic Minerals Directorate for Exploration and Research, AMD Complex, Begumpet, Hyderabad.

.....Respondents

ORDER

(Per Hon'ble Mrs. Ranjana Chowdhary, Administrative Member)

The relief sought for by the applicant is to set aside and quash the impugned order dated 13.5.2015 (Ann. A/1) and to direct the respondents to appoint him to the post of ASO and as an interim measure to stay the operation of



the impugned order and accordingly to direct the respondents to keep one post of ASO-A in AMD vacant till the final disposal of this OA.

2. The facts of the case are that the impugned order is in response to the applicant's representation dated 22.4.2015 regarding furnishing the information with regard to the previous employment in Bank of Baroda and requesting that his candidature for the post of ASO be considered. It has been stated in the impugned order that in the Attestation Form it has been indicated that furnishing of false information or suppression of any factual information in the Attestation Form would be disqualification and is likely to render the candidate unfit for employment under the Government. Under the clause 3, if the fact that false information has been furnished or that there has been suppression of any factual information in the Attestation Form comes to notice at any time during the service of a person, his services would be liable to be terminated. That his request was considered by the competent authority but it has not been accepted owing to the fact that applicant had suppressed the fact of selection and appointment in the Bank of Baroda at the time of filling of Attestation and Special Security Forms to this Directorate. Accordingly his candidature for the post of Assistant Security Officer-A in AMD stood cancelled.

3. The only issue to be decided is whether or not the applicant suppressed the fact of his being in the employment of Bank of Baroda, in the various stages relating to his selection for the post, wherein, as per the protocol of documentation he has to give information regarding previous employment.

4(i) To adjudicate on the same it would be pertinent to narrate the chronological sequence of the various stages of selection and the documents that the applicant had to fill inter-alia indicating his previous employment.

4(ii). The first document that the applicant has filed is NOC for civil employment issued by the Bureau of Sailors dated 22.2.2013(Ann. A-2). This states that the NOC is issued to the applicant who is due to be released from service in the Indian Navy on 31.1.2014. That he is eligible to take up Civil Employment after this date. It is pertinent to point here that this NOC has been issued 10 months prior to the applicant's release from the Indian Navy and as such it is not a Discharge Certificate. In fact, the applicant has not submitted copy of his Discharge Certificate. Accordingly, we do not have any documentary proof as to when he was discharged from the Indian Navy.

4(iii). The applicant has submitted a copy of the said advertisement(Ann.A/3). In the advertisement the date of issue of the advertisement has not been indicated. Information relating to the last date for submitting of applications has been indicated as 22.4.2013. The post applied for is enlisted at Sl.No.1 i.e. Assistant Security Officer-A in AMD. From a perusal of the items relating to minimum qualification and experience, age etc. it is clear that there are different standards for ex-Serviceman and for others. Needless to say that the standards for ex-Serviceman were more liberal as compared to the others. The maximum age limit for Ex-servicemen and persons with police and para-military backgrounds was 30 years (after deducting the period of service



from the actual age). Ex-servicemen and an ex-constables were eligible to apply only within three years of discharge of retirement from Armed Forces or Police. The applicant in para 4 A of the OA has stated that he was discharged from the Indian Navy on 31.1.2014, however, he has not submitted a copy of the same. In para 4 B of the OA the applicant states that he applied for the said post in the Ex-Serviceman Quota. In the advertisement notice under the caption "HOW TO APPLY" 6(E) applied to Ex-defence personnel only who had to submit Discharge Certificate. Item 6(F) applied to persons working in Central/state Government/Public Sector Undertakings who were required to submit NOC from their employers. It is to be noted that the applicant has not filed the Discharge Certificate prescribed under 6(e) . He has filed only NOC for civil employment issued by the Bureau of Sailors indicating that he will be released from service on 31.1.2014 and further that he is eligible to take up civil employment after this date (Ann.A/2) as the applicant has not submitted a copy of the application form that was submitted by him, accordingly we do not know what information he had filled against the Item 6(E) and 6 (F). The last date for applying for the post was 22.4.2013. As per NOC from Bureau of Sailors dated 22.2.2013 (Anx-A-2), the applicant was still in Indian Navy and was to be discharged only on 31.1.2014. Further that it was only after 31.1.2014 that he would be eligible to take up civil employment i.e. after 9 months from the date of issue of NOC. In fact it was indicated in the advertisement under the title HOW TO APPLY against item 6E, that candidates have to give Discharge Certificate from Defence. It is clear that he



would not have been able to give the Discharge Certificate while he was still serving in the Indian Navy. Accordingly, the applicant was not in a position to submit the Discharge Certificate as per Item 6(E) . The question of submitting NOC as per Item 6(F) was not applicable to him as at the time of submitting his application form he was still in the service of the Indian Navy.

4 (iv) Vide letter dated 26.12.2013 he was asked to appear for the physical endurance test on 31.1.2014. In the said letter as per instruction No.5 candidates were instructed to bring all original certificates. *Ex-Serviceman were required to bring Discharge Certificate/Discharge Book along with an attested copy (attested by the Gazetted Officer) for verification.* It is pertinent to point out here that when the candidate received the letter for physical endurance test dated 26.12.2013 for which he was to take the test on 31.1.2014, as per NOC available at Annexure A-2 he was still in the service of the Indian Navy as he was to be released from Indian Navy w.e.f. 31.1.2014. *Incidentally the date of his alleged discharge from the Indian Navy i.e. 31.1.2014 was the date on which he appeared in physical endurance test.* *The applicant is silent on whether or not he submitted his Discharge Certificate.* *We are at a loss as to on what basis he was permitted to take the physical endurance test in absence of the required Discharge Certificate.*

4(v) He qualified in the physical endurance test held on 31.1.2014 and was accordingly called for the written examination vide respondents letter dated 13.2.2014 scheduled to be held on 9.3.2014. He qualified in the same and was



called for interview.

4(vi). That the applicant was accordingly call for the Interview vide letter dated 16.6.2014.The date for interview was indicated as 17.7.2014. In this letter the candidate were instructed that *if they are Ex-Serviceman , they are required to produce original Discharge Certificate /Discharge Book for verification as per Item No.2. As per Item No.4 if they are employed in Central/State/PSU, a No Objection Certificate from the employer must be produced failing which they will not be permitted to attend the interview.*

4(vii). Going by his own submissions that he was discharged from the Indian Navy on 31.1.2014 and that he was appointed in Bank of Baroda shortly after his discharge, coupled with the fact that his resignation was accepted on 28.3.2015, it can safely be inferred that on the date of interview on 17.7.2014 he was employed with Bank of Baroda a Central PSU. *Accordingly it was incumbent on him to submit NOC from his employer i.e. Bank of Baroda, thereafter only he was to be allowed to participate in the interview.* In spite of the fact that the applicant on the date of interview was employed with Bank of Baroda which is a Central PSU he failed to submit NOC from his employer. We are at a loss as to how he was permitted to appear for the interview as it was clearly indicated that if a candidate fails to submit NOC, he would not be allowed to appear for the interview. This was no doubt a serious omission on the part of the applicant and cannot be simply wished away. It is also pertinent to point out that the applicant has nowhere submitted a copy of his appointment letter in Bank of Baroda.

A handwritten mark or signature, possibly 'P', enclosed in a circle.

5. That the applicant was successful in the interview held on 17.07.2014 is evident from a copy of the list of candidates in Select Panel for the post of ASO in which his name appears at Sl.No.1, submitted by him marked as Annexure A-7. The applicant has submitted the Select Panel but has not enclosed the covering letter, accordingly we do not know the date of issuance of the Select Panel. In the Select Panel it was indicated that the appointment will be subject to the availability of vacancies. Further, that candidate should satisfy the *recruitment norms as per advertisement and mere empanelment does not confer a candidate right to claim for appointment for the post of ASO-A*. Subsequent to the issuance of the Select Panel, the respondents, sent the applicant the Attestation Form and SSQ to be filled by him and the contents to be duly attested by a Gazetted Officer. The applicant has not filed a copy of the said forms filled by him.

6. The applicant is silent as to what transpired between the respondents and him after the issuance of the Select Panel, as such we can reconstruct the events only on strength of the representation written by the applicant dated 22.04.2015 addressed to R-3 on the subject "information related to previous employment Hemant Kumar S/o Prem Chand jatav" (Anx-A-9) and on basis on his appeal against the impugned order dated 17.05.2015 addressed to R-3 (Anx-A-10). From these we learn that after the applicant's name appeared in the Select List, the respondents send him the Attestation Form and Special Security Questionnaire (SSQ), however, the applicant does not state as to when he received, filled and dispatched the same to the respondents. The applicant has

not filed photo copy of the said documents filled by him. In his representation he states that he learned about his mistake when he was called by Mumbai Police for verification and on going through the SSQ forms sent by the respondents to the Mumbai Police he realized his mistake in not informing about his previous employment in Bank of Baroda. Further, that no sooner he realized his mistake that he sent a fax message dated 26.08.2014. He states that he is attaching the same with his representation. *The applicant has not attached a copy of the alleged fax dated 26.08.2014* in the absence of which we cannot accept what he states at its face value. From the above we can come to the logical conclusion that the said fax message would have been send by the applicant subsequent to the dispatch of the Attestation Form and SSQ in which he admits that he inadvertently failed to mention that he was working with Bank of Baroda. However, in his appeal he has mentioned that he had submitted his Attestation Form and SSQ on 27.08.2014. If this was so, then how come in his representation he writes that on realizing that he had not indicated that he had worked in Bank of Baroda, he informed the respondents about the same vide his fax message dated 26.08.2014 i.e. *he rectified his mistake one day prior to having committed the same.* This naturally puts a question mark on his credibility. The applicant states in his appeal that at the first available opportunity he rectified his alleged inadvertent error in not mentioning his employment in Bank of Baroda by sending a fax message dated 22.04.2015. It is strange that when according to him he submitted his forms on 27.08.2014 and rectified the mistake in not mentioning his

employment with Bank of Baroda by sending the alleged fax dated 26.08.2014, he now states that at the first opportunity he rectified this mistake through the fax message dated 22.04.2015. The fact of the matter is that it was only when the respondents sent his Attestation Form and SSQ to the Mumbai Police that the latter on investigation found out that he has suppressed information relating to his previous employment with Bank of Baroda. From the above it is clear that it was only when during investigation that the Mumbai Police and IB confronted him with having suppressed the fact of previous employment with Bank of Baroda that he had no option, but to allege that this was due to an inadvertent error on his part. We have already indicated that no credence can be placed on his contention that he rectified this mistake subsequently as is evident from the said contradictory information that he is giving in his representation dated 22.04.2015 closely followed by his appeal dated 17.05.2015. In his appeal he states that, "in the Attestation and SSQ forms I could not write about my employment in Bank". *However, he does not assign any reason why he could not do so.* Be that as it may, he admits that he had not indicated the information about his having worked in Bank of Baroda.

7. As regards his resignation from the Bank of Baroda dated 07.03.2015 which was accepted by the Branch Manager on 28.03.2015, our observation is as follows :

The applicant states in his representation that " after selection to the post of ASO in AMD I made up mind to resign from Bank services" that the same was

informed by him to Rajasthan Police and IB during verification. He is referring to his selection to the post of ASO in AMD on the strength of the Select Panel in which he was at Sl.No.1. We have already mentioned that there no date mentioned in the Select Panel. We fail to understand why the applicant merely on account of the fact that his name was in the Select Panel, resigned from his post from Bank of Baroda before having been offered an appointment letter for the post. The applicant has not indicated what were the compelling reasons which made him resign from his job in Bank of Baroda in the absence of an appointment letter to the said post of ASO in AMD. It may be mentioned here that in the footnote of the Select Panel it was indicated that Candidate should satisfy the *recruitment norms as per advertisement and mere empanelment does not confer a candidate right to claim for appointment for the post of ASO-A*. The applicant is also silent as to who gave him assurance that he would receive his joining letter for the post of ASO in AMD any time.

8. From the above it is evident that at each and every stage in which the applicant was required to fill the prescribed application form inter alia indicating his previous and current employment he always, for reasons best known to him, suppressed the fact of his having worked in Bank of Baroda. Right from the very beginning he endeavored to put a cloak on his previous employment as is evident from the fact of non-disclosure of the same and by giving contradictory information as aforementioned which puts a question mark on his claim that after realizing the said mistake, he rectified through an alleged fax message. In fact he

has not even enclosed a copy of the Discharge Certificate from Indian Navy as was required. That the applicant revealed that he worked in Bank of Baroda when he had no option but to do so as the Police and IB during investigation had found out about the same.

9. On the basis of the aforementioned facts and circumstances, we find that the applicant has not come with his hands clean as right from the very beginning not only did he fail to submit a copy of his Discharge Certificate from the Indian Navy, but also at all stages when he was required to fill the various forms against the relevant entry relating to previous / current employment, he suppressed the fact that he worked in Bank of Baroda. As such we do not find any reason to interfere with the impugned order.

10. OA is accordingly dismissed at the admission stage. No order as to costs.



(MRS. RANJANA CHOWDHARY)
MEMBER (A)



(JUSTICE HARUN-UL-RASHID)
MEMBER (J)

Adm/sd