

CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH; JAIPUR

Original Application No. 488/96

Sunder Singh
S/o Sukh Lal Singh
working as FGM(SK)
in the office of the
Commander Works Engineer,
Jaipur : Applicant

rep. by Mr. Balvinder Singh: Counsel for the applicant

-verses-

1. Union of India through
Secretary, Ministry of
Defence, New Delhi.
2. Engineer-in-Chief
Army Head Quarters
Kashmir House
New Delhi.
3. Chief Engineer
Jaipur Zone
Power House Road,
Bani Park
M.E.S. Jaipur.
4. Commander Works Engineer
Nallah Garden Road
Bani Park
Jaipur.
5. Laxmi Narain, FGM (HS-II)
through Chief Engineer,
MES Jaipur Zone
Jaipur. : Respondents.

rep. by Mr. S.M. Khan : Counsel for the respondents.

CORAM: The Hon'ble Mr. Justice G.L.Gupta, Vice Chairman
The Hon'ble Mr. A.P. Nagrath, Administrative Member.

Date of the Order:

10.01.07



Per Mr. Justice G.L.Gupta,

ORDER

Through this O.A. under Sec. 19 of the Administrative Tribunals Act, 1985, the applicant seeks the following reliefs:

- " i) The action of the respondent Department in respect of fixing the marks for interview 65 out of 100 may kindly be declared arbitrary illegal and against the law and the entire act of the department may kindly be struck down in the interest of justice.
- ii) By issuing a direction the respondent may further be directed to declare the question paper is also contrary to the marks allotted for the written test as the same is not justified and against the law. Therefore the question paper may also be declared illegal and unjustified.
- iii) (that respondent be further directed to consider the case of the applicant and should given the benefit of promotion to the post of FGM(HS) Gr.II with retrospective effect and further directed the respondent to call the entire record of this case so that the entire position of the case would be cleared before this Hon'ble Tribunal and that would be fair, equity and in the interest of justice.)
- iv) any other order with this Hon'ble Tribunal thinks proper may also be awarded. "

2. It is averred that the applicant was initially appointed on the post of FGM(SK) under the control of the respondent department with effect from 1983. Prior to that, it is alleged, he worked in the department from 6.7.59 to 1983 on various posts. In the year 1995, the respondent department conducted an examination for promotion to the post of FGM (HS) Gr.II. The applicant



was eligible to appear in the said examination and therefore he was allowed to appear in the trade test held on 11.10.95.

The case for the applicant is that he did well in the written test but his name did not find a place in the list of successful candidates issued on 11.3.96. The applicant made a detailed representation stating that he had answered the questions correctly yet he has been declared unsuccessful and that some persons who had not participated in the examination were declared successful.

It is alleged that interview of the 250 candidates were held in one day which shows that the selection was not fair.

The further case for the applicant is that out of 100 marks 35 marks were fixed for the written test and 65 marks were fixed for the interview which is against the various decisions of the Supreme Court, wherein it was held that there could not be more than 12½% of the total marks for the interview.

It is further case for the applicant that the question paper indicated that maximum marks were 35 whereas as per the note 5 questions were to be answered by the candidates and each question carried 8 marks and thus the total marks came to be 40.

3. the In the reply, the respondents have come out with a case that the applicant was allowed to appear



for the trade test but he failed and therefore he was not entitled to appear for the interview. It was further stated that there was some bonafide mistake due to similarity of the names of two candidates but the same was rectified. It is further stated that Military work is different from Civil work and the Chief Engineer Command is empowered to frame syllabus keeping in view of the nature of the job. It is stated that the compulsory question No. 27 carried 3 marks only and the remaining questions carried 8 marks each and thus the total marks of 5 questions to be answered come to 35 only. It is prayed that the Q.A be dismissed.

4. We have heard the learned counsel for the parties and perused the documents placed on record.

5. The averments made in the reply indicate that the applicant had failed in the trade test. It is further evident from the reply that in the question paper maximum marks 35 had been correctly shown, as all the questions were not of 8 marks and question No. 27 which was compulsory, carried only 3 marks. Therefore there was no fault in the question paper.

6. When the applicant had failed in the trade written test it is futile to urge that the marks for the interview were not in accordance with the decisions of the Hon'ble Supreme Court. Apart from that, the job requirement in the Military is different from the job work in the Civil side. It was not



disputed that the Chief Engineer, Command had the power to prepare syllabus keeping in view the job requirement. That being so the action of the respondents in fixing more marks for interview cannot be called in question.

7. The applicant has not filed any rejoinder controverting the facts stated in the reply. In other words, it is not disputed that the applicant had failed in the written test. It is also not disputed that the job requirement in the Military is different from the job requirement in the Civil side.

8. It is significant to point out that the applicant has not averred that he has been declared unsuccessful because of malafides. That being so, we do not find any case in favour of the applicant.

9. Consequently, this O.A is held to be devoid of merit and is hereby dismissed. No order as to costs.

hns
(A.P. Nagrath)
Administrative Member

GG
(G.L. Gupta)
Vice Chairman

jsv.