

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH,
JABALPUR

Original Application No. 634 of 2004

Indore, this the 26th day of April, 2005.

Hon'ble Mr. M.P. Singh, Vice Chairman
Hon'ble Ms. Sadhna Srivastava, Judicial Member

Zakir Ali, son of Maqbul Ali,
Aged about 34 years,
Resident of Shri Hans-Nagar
Paregaon Road, Naw Telephone
Colony, Multai, District
Betul.

Applicant

(By Advocate – Shri P.S. Das)

V E R S U S

1. Union of India, Through
The Secretary Ministry of
Defence, New Delhi.
2. Station Commander Station
Amla, District Betul.
3. Air Officer Commander in
Chief of Maintenance in IPA,
Nagpur.

Respondents.

(By Advocate – Shri A.P. Khare)

O R D E R

By M.P. Singh, Vice Chairman –


By filing this Original Application, the applicant has sought the following relief:-

- “ii To direct the respondents No.1 to No.3 to appoint the applicant on the post of Anti Malaria Lascar as usual with all consequential benefits in the Amla Air Force Depot, quashing the order dated 28.5.2004.”
2. The brief facts of the case are that the applicant was appointed and has served on the post of Anti Malaria Lascar under the control of respondents at Amla Air Force Station w.e.f.1.6.1993 to 30.11.1993 as



is evident from the certificate dated 19.1.1994 (Annexure-A-1) issued by the Civilian Gazetted Officer, Officer-in-charge, Civil Administration, A F Station, Amla. The applicant has alleged that he was called for interview on 11.3.1994 but he was not given any posting order. He was also regularly called for interview for the years 1996-98. The applicant had produced all the certificates as desired by the respondents. He was orally informed that he would receive the posting order, but till now the applicant has not received the posting order whereas the appointments have been given to other persons on the post of Seasonal Anti Malaria Lascar. The applicant has again been interviewed along with other applicants of OA No.388/03, namely Ashok Singh Chouhan, Ashok Kumar and Gokul Prasad. The aforesaid OA 388/03 had been disposed of by this Tribunal vide order dated 28.10.2003 in which respondents were directed to consider the case of the applicants for appointment on the post of Seasonal Anti- Malaria Lascar against future available vacancies. The applicant had submitted a detailed representation enclosing all the requisite documents including the OBC certificate. However, the respondents vide their order dated 28.5.2004(Annexure-A-9) have rejected the representation on the ground that he had "failed to qualify in the physical test and did not produce birth and caste certificate". According to the applicant he had shown all the requisite certificates to the respondents at the time of interview. Since the respondents have not considered the applicant for appointment as Seasonal Anti Malaria Lascar, he has filed this O.A. claiming the aforementioned reliefs.

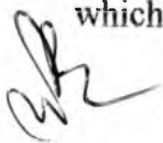
2. The respondents in their reply have stated that the applicant had worked as Seasonal Anti Malaria Lascar during the year 1993-94 and he was regularly called for test and interview during the subsequent years. However, he was never found suitable and, therefore, not selected. The selection for the post of Seasonal Anti Malaria Lascar for the current financial year from June,2004 to 30th November,2004 has been done, by an independent selection committee, according to



the notional seniority list which has already come on the record vide Annexure-R-1. The applicant was never called for interview on 10.5.2004 as stated by him. According to the respondents there are two distinct tests one is physical ability test and the other is medical examination. The physical ability test is conducted by a duly constituted selection committee and the medical examination is conducted by the Medical Board. The respondents have contended that the applicant did not qualify in the physical ability test conducted by the duly constituted committee and the question of his medical examination would have arisen only if he had passed the physical ability test and found suitable by the selection committee.

The respondents in their reply to the rejoinder filed by the applicant have also stated that during the hearing of CCP No.37/2004 the Tribunal had directed that the selection of Seasonal Anti Malaria Lascar be done strictly on the basis of medical fitness and good conduct of the candidate and in accordance with the notional seniority list which should be prepared on the basis of initial date of engagement of the candidate. These directions of the Tribunal will be complied with by the respondents.

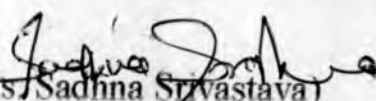
3. Heard the learned counsel of both the parties.
4. The question for consideration is whether the applicant who had been engaged earlier as Seasonal Anti Malaria Lascar by the respondents can be considered for engagement again in preference to the juniors and freshers. In this case we find that the applicant was earlier engaged by the respondents in 1993-94 and thereafter he had been called for the test again by the respondents to assess his suitability for re-engagement as Seasonal Anti Malaria Lascar. He had been found unsuitable mainly on the ground that he could not clear the physical ability test. The respondents have, however, further stated that the applicant had failed to produce date of birth and caste certificates. We find that since the applicant had earlier worked under the respondents as Seasonal Anti Malaria Lascar and the selection which was made by the respondents was also not for the regular posts




of Anti Malaria Lascar, the respondents ought to have given the applicant the weightage of his experience acquired by him during earlier engagement. As regards the physical ability test is concerned, the respondents are required not to prescribe their ^{own} new tests but are bound to abide by the same physical ability test and medical test which are prescribed by the Department of Personnel and Ministry of Defence for engagement of Class-IV employees.

5. Taking over all view of the case, we deem it appropriate to direct the respondents to consider the candidature of the applicant in the next available vacancy in preference to outsiders and freshers. They should also keep in mind that they may not put the applicant to physical ability test or medical test other than prescribed by the Government and they should strictly follow the instructions issued by the DOPT and Ministry of Defence from time to time in regard to holding of physical and medical test required for engagement of Class-IV employees.

6. In the result, the O.A. is disposed of with the directions contained in the preceding paragraph. No costs.


(Ms. Sadhna Srivastava)
Judicial Member


(M.P. Singh)
Vice Chairman

rkv

पृष्ठान्कन सं ओ/न्या.....जबलपुर, दि.....
पत्तिलिपि अर्पित:-

- (1) सजिन, उच्च न्यायालय नगर एग्जिक्यूटिव, जबलपुर
- (2) आदेशक पी/डी पी/डी.....के कार्सल
- (3) सजिन पी/डी पी/डी.....के कार्सल
- (4) न्यायालय, न्यायालय, जबलपुर न्यायालय
सर्वना एवं आवश्यक कार्यवाही हेतु

P.S. 201 Dr. MBP

A.P. Khanna Dr

10-5-05

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