

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No.388 of 2003

Jabalpur, this the 28th day of October, 2003

Hon'ble Shri M.P.Singh, Vice Chairman
Hon'ble Shri G.Shanthappa, Judicial Member

1. Ashok Singh Chauhan, son of Shri Dhani Ram Chouhan, aged about 36 years, R/o Bodkhi, Amla, Tah. Amla District-Betul M.P
2. Ashok Kumar son of Shri Prem Chand Amodkar, aged about 32 years, R/o Jeeradhana, Bodkhi, District-Betul M.P.
3. Gokul Prasad son of Shri Ramchandra aged about 35 years, R/o Bodkhi Amla, Teh. Amla Distt:Betul M.P.

- APPLICANTS

(By Advocate - Shri P.S.Das)

Versus

1. Union of India, through the Secretary, Ministry of Defence, New Delhi.
2. Station Commander Air Force Station, Amla, District-Betul, M.P.
3. Air Officer Commanding in Chief of Maintenanc in IAF, Nagpur.
4. Yogesh son of Baliram.
5. Hariram son of Shagnu.
6. Narendra son of Raghunath.
7. Suresh s/o Shukhlal.
8. Kuwarlal son of Bhondu

No. 4 to 7 are resident of Bodkhi, Amla and No.8 is R/o Village Khidki, Tah. Amla District-Betul, M.P.

- RESPONDENTS

(By Advocate - Shri S.P.Singh)

ORDER (Oral)

By G.Shanthappa, Judicial Member -

The applicants have filed the above Original Application praying for the following main reliefs-

"To direct the respondents No.1 to 3 to appoint the applicants on the post of Seasonal Ant Malaria Lascar as usual with all consequential benefits in the Amla Air Force Depot, quashing the order dt.2.6.2003 in respect of appointment of respondents No.4 to 8."

2. The case of the applicants is that the respondents have not selected the applicants for the post of Seasonal Ant Malaria Lascar (for short 'SAML') under respondents 1 to 3. The applicants submit that they had worked earlier on the post of SAML at Amla Air Force in the year 1993-94

as per Annexures-A-1 to A-4. It is alleged that the applicants were called for interviews through the Employment Exchange in the years 1995-96 to 1998-99 as well as in subsequent years till 2003. The applicant no.1 was sent for medical examination after his selection as SAML vide Annexure-A-7. Similarly the applicant no.3 was also selected. The present applicants had also filed OA No. 384 of 2000 along with other applicants. In the said OA this Tribunal had granted an interim order on 9.5.2000 to the effect case of the that the applicants may be duly considered for appointment as seasonal worker because they have gained experience. It is contended that, in spite of the above order of the Tribunal, the services of the applicants have been dispensed with and respondents 4 to 8 have been appointed. Hence, this O.A.

3. Per contra, the respondents have filed detailed objections denying the averments in the OA. The main objection of the respondents is that the applicants are not permanent employees. They were appointed purely on seasonal casual basis with a specific condition that their services may be terminated on expiry of the stipulated period. It is relevant to mention that for denying the appointment to the applicants XXX for the post of SAML, the respondents in para 6 of their reply have specifically stated that -

"the applicants including other selected candidates in the Main Merit List as well as stand By Merit List were sent for medical examination and in the said medical examination, the applicants were not found fit and, therefore, they have not been employed as SAML. The respondent No.04 to 08 were found fit by the medical board, hence they have been selected and employed as SAMLs for the current financial year 2003-04.

The respondents have supported the impugned order and request the rejection of the O.A.

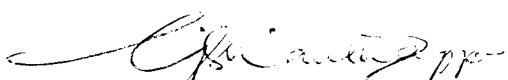
4. The applicants have filed MA No.1301/2003 for production of the documents. Along with this MA they have produced the medical reports of the applicants. According to Annexure-F filed with this MA, the applicants have to

:: 3 ::

approach the appellate authority if they are aggrieved by the order of medically unfit ~~exception~~. Admittedly, the applicants have not preferred any appeal.

5. After hearing the learned counsel for both the sides we have decided to dispose of this OA on a short point that whether the applicants have exhausted their remedies before the appellate authority being aggrieved by the order of medically unfit ~~exception~~. Unless the applicants obtained a clear medical fitness certificate from the competent authority for their appointment against the post of SAML, their case cannot be considered by the respondents. The applicants want a direction from this Tribunal directing the respondents to appoint the applicants without getting the medical fitness certificate. This request of the applicants cannot be considered. According to the submissions of the parties, it is an admitted fact that the applicants have not approached the appellate authority.

6. Accordingly, this OA is disposed of, without expressing any opinion on the merits of the case, with a direction to the applicants to approach the appellate authority to challenge the findings of the medical officers. After obtaining the medical fitness certificates, if they produce before the respondents, the respondents are directed to consider the case of the applicants for appointment to the post of SAML against the future available vacancies. No costs.


(G. Shanthappa)
Judicial Member


(M.P. Singh)
Vice Chairman(A)

rkv.


Xerox
3/1/83

PS Das, Adv.
SP Singh