

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 399/02

Jabalpur, this the 11th day of March, 2004

Hon'ble Mr. M.P. Singh, Vice Chairman
Hon'ble Mr. Madan Mohan, Judicial Member

Raj Kishore Panday
Aged about 22 years, son
of Shri Jagdeesh Panday,
resident of C/o Shri D.P. Singh,
House No.804, Street No.19,
Near Sharda Mandir, Sadar,
Cantt. Jabalpur.

APPLICANT

(By Advocate - Shri A. Mukhopadhyay)

VERSUS

1. Union of India through
The Ministry of Defence,
Government of India,
New Delhi.
2. Officer Commanding,
Jammu & Kashmir Rifles,
Abhilekh Karyalaya, Records,
Post Bag No. 42, Jabalpur
Cantt., (M.P)
3. Suprintendent of Police,
Jabalpur.
4. Supreintendent of Police,
Rewa.

RESPONDENTS

(By Advocate - Shri S.P. Singh)

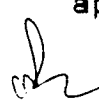
O R D E R (ORAL)

By M.P. Singh, Vice Chairman -

By filing this OA, the applicant has claimed a direction to the respondents Nos. 3 and 4 to submit the police verification regarding him and further direction to the respondents Nos 1 and 2 to issue appointment letter to the applicant if the report submitted by the police is conducive to his appointment to the post of messenger.

admitted

2. The ~~maxim~~/facts of the case are that the respondent No. 2 has advertised 3 posts of Messenger - out of 3 posts, 2 were ear-marked for general candidates and 1 ^{was} ear-marked for Scheduled Caste/Scheduled Tribe. ~~744~~ 844 candidates applied and written/verbal test was held on 15.09.2001



The applicant has been selected for the post of Messenger against the general vacancies and has been placed at serial No.2. Subsequently the posts of Group-D employees have been reduced and only one vacancy of general candidate was available at the time of appointment to the post of Messenger(Group-D). Since, the applicant has not been given an offer of appointment, aggrieved by this, he has filed this OA claiming the aforesaid reliefs.

3. Heard the learned counsel for the applicant and respondents and also perused the records.

4. The learned counsel for the applicant has submitted that the applicant has been selected and has been informed about his selection for the post of Messenger but he has not been given appointment to the said post. According to him, there are 3 posts of Messenger available with the respondents. Despite that the respondents have not appointed the applicant. In support of his claim, he has relied on the judgment of the Hon'ble Supreme Court in the case of N.T.Devin Kahti and Ors. Vs. Karnataka Public Service Commission and Ors., (1990) 3 SCC 157. He has submitted that as per the aforesaid judgment of the Hon'ble Supreme Court the recruitment to any post is to be made as per existing Rules and they cannot be changed ^{to the} subsequently/dis-advantage of the selected person.


4.1 On the other hand, the learned counsel for the ^{has} respondents/stated that although there were 3 vacancies at the time of circulating the posts of Messenger but subsequently when the revised strength of PF was received from the Headquarter to the post of Group-D i.e. Messengers were reduced from 15 to 14 only. Only one post was available. He has stated that only 1 person can be appointed and ^{applicant, who} the/ was placed at Sl. No.2 cannot be appointed. According to

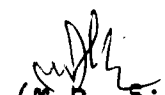
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him, as there was no post, the applicant does not have any claim. The learned counsel for the respondents has further submitted that although the applicant has been selected for the post of Messenger, he does not have any right for appointment. In support of his submission, he has relied upon a judgment of the Hon'ble Supreme Court in the case of Vinodan T. & Ors. Vs. University of Calicut & Ors 2002 (3) ATJ 649. XXXXXXXX He has also relied ^{OR} a judgment of Hon'ble Supreme Court in the case of Baitarani Gramiya Bank Vs. Pallab Kumar and Ors., 2003 AIR SCW 4884 in this case the Hon'ble Supreme Court has held as under :-

(B) Constitution of India, Art.16 - Regional Rural Banks Act(21 of 1976, S.17 - Regional Rural Banks (Appointment and promotion of Officers and other Employees) Rules(1998), R.1 - Appointment - Select listed candidate - Right to claim appointment - Appointment to rural bank - Vacancies initially communicated by bank to recruitment Board subsequently reduced - Board however selecting candidates equal to original number of vacancies - Bank cannot be directed to appoint all the selectees. View that selectee higher up in merit gets indefeasible right of appointment if selectee lower in merit gets appointed in different bank - Based on incorrect view that under selection scheme a common merit list for all banks was prepared".

5. We have very carefully considered the rival contention of the parties and we find that that the applicant has been selected for the post of Messenger but has been placed at Sl. No. 2 for the vacancy ear-marked for general candidates . At the present, there is only one vacancy for Messenger with the respondents. Although the applicant has been selected for the post of Messenger and he was placed at Sl. No. 2, in view of the law laid down by the Hon'ble Supreme Court in the aforesaid judgments, the applicant does not have any right for appointment. For the reasons recorded above, the OA is bereft of merits and is accordingly dismissed. No costs.


(Madan Mohan)
Judicial Member


(M.P. Singh)
Vice Chairman