

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 57 of 2002

Jabalpur, this the 15th day of December, 2003

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

Anil Kumar Mishra
aged 31 years
son of Shri R.S. Mishra
resident of village Ghana
Post Office Senapur, Khamaria
Jabalpur, District Jabalpur(M.P.)
(By Advocate - Shri S. Nagu)

APPLICANT

VERSUS

1. Union of India
through Secretary,
Ministry of Defence Production
and Supplies, South Block,
New Delhi.
2. Chairman,
Ordnance Factory Board,
Ayudh Bhawan,
10-A, Shahid Khudiram Bose Road,
Kolkata - 700 001
3. Senior General Manager,
Ordnance Factory,
Khamaria, Jabalpur(MP)

RESPONDENTS

(By Advocate - Shri S.P. Singh)

O R D E R (ORAL)

By M.P. Singh, Vice Chairman -

This case was listed for Orders. However with the consent of the learned counsel for the parties, the case is taken up for final disposal.

2. The applicant has filed this OA seeking the following reliefs:

(i) to direct the respondents No.3 to issue call letter to the applicant and allow him to participate in the selection process to be held on 4/5-2-2002.

(ii) to direct the respondents No. 3 to allow the applicant to undergo the training of two weeks as junior to the applicant are being made to undergo



(iii) to restrain the respondent No. 3 from considering the removal of the applicant from the post of Chergeman Grade-II (Chemist) as obstacle/dis-qualification for the said employment.

In para 7.(ii) of the OA, the applicant has asked for a direction to the respondents to allow him to undergo the training. This amounts to selection of the candidate. Such a direction can-not be given to the respondents by the Tribunal as the applicant has only the right for consideration and not for selection. The learned counsel for the respondents has no objection if this relief is withdrawn by the applicant in relief clause in para 7(ii).

3. The brief facts of the case are that the applicant was appointed as Chergeman Grade-II (Chemist) under the respondent No. 3 D.O.F. 2.4.96. Later on, the experience certificate produced by the applicant was found to be false. Therefore, a charge sheet was issued to him on the ground that the experience certificate produced by him was false. Thereafter^{an} enquiry was held against the applicant and the applicant was removed from service vide order dated 20.6.2001 (Annexure-A-5). The applicant challenged the said order, in this Tribunal in OA No. 518/02 which was rejected by this Tribunal vide order dated 9.7.03. Thereafter the respondent No.3 has calculated the vacancies ^{position} in the semi skilled category i.e. the vacancies for appointment of ex-trade apprentice in the semi skilled grade under respondent No.3. The respondent No.3 has recruited the ex-trade apprentice against the posts available in the industrial employees category in semi-skilled grade. The selection process for appointment to the D.B. Worker (Danger Building Worker) in semi-skilled ^{was} to be conducted on 4-5th February, 2002 but the applicant did not receive any call letter to participate in the

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selection. The applicant has submitted a representation to the respondents to consider him for selection as he was removed from service and the 'removal' is not a bar for future employment in Government department. However, the respondents have rejected the representation of the applicant, ~~vide order dated 5.9.81~~ ^{with}. Thereafter he has filed an appeal dated 8.1.02 and till now no decision ^{has been} ~~was~~ taken by the respondents on his representation. Aggrieved by this the applicant has filed this OA claiming the aforesaid reliefs.

4. The respondents have filed their reply and stated that the representation of the applicant dated 8.1.02 for his employment to the post of Semi Skilled workman being an Ex-Trade Apprentice has been examined by Sr. General Manager Ordnance Factory, Khamaria and has been forwarded to Ordnance Factory Board, Kolkata for decision. In the mean time the applicant has approached the Tribunal before any decision could be conveyed to him on his representation by the respondents. Since the case of the applicant is subjudice before this Tribunal, no reply to his representation could be given.

5. We have heard the learned counsel for the parties and perused the records.

6. The learned counsel for the applicant has submitted since the applicant has been removed from service and according to him the removal from service is not a bar for future employment in the Government department and it is only the dismissal from service, which is ^a ~~barred~~ ^{bar} for further employment in Government, therefore, the applicant should be considered for the

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post, that is, ex-trade ^{apprentice in} semi skilled employee category.

7. On the other hand the learned counsel for the respondents stated that the representation of the applicant is still under consideration.

8. We have very carefully considered the pleadings and submission made by both the parties. We find that the applicant was appointed as Chargeman Grade-II and he was removed from service on the ground that he had submitted a fake experience certificate for appointment to the post of Chargeman Grade-II (chemist). Aggrieved by the removal from service he has filed OA No. 518/02, and the Tribunal has dismissed ^{the} said OA vide order dated 9.7.03. We find from Rule 11(VIII) read with Rule 11(ix) of the ^{CCS} (CCA) Rules, 1965 that removal from service is not a disqualification for future employment under the Govt. Since the applicant has been imposed the penalty of removal from service and not dismissal which is ordinarily disqualification of employment, the respondents are directed to take a decision on the representation of the applicant dated 8.1.02 and July 2002, by passing a speaking and detailed reasoned order within a period of 2 months from the date of receipt of a copy of this order.


9. The OA is disposed of with the aforesaid terms.
No costs.



(G. Shanthappa)
Judicial Member


(M.P. Singh)
Vice Chairman

पूठकन सं ओ/न्या.....जबलपुर, दि.....
पतिलिपि अर्गोहित:-

- (1) सचिव, उच्च न्यायालय वार एसोसिएशन, जबलपुर
- (2) आवेदक श्री/श्रीमती/कु.....के काउंसल S. Nagu, A. Ch
- (3) प्रत्यक्षी श्री/श्रीमती/कु.....के काउंसल
- (4) न्यायालय, जे.प्र.न. जबलपुर न्यायापीठ
सूचना एवं आवश्यक कार्यवाही हेतु


SP Singh, A. Ch


19.12.03 SKM