

21.07.2009

OA No. 149/2005

Mr. P.V. Calla, Counsel for applicant.
Mr. Gaurav Jain, Counsel for respondents.

Learned counsel for the respondents has placed on record the copy of the minutes of the Selection Committee held on 14.02.2004 and 17.02.2004. The same is taken on record.

Let the matter be listed on 13.08.2009.


(B.L. KHATRI)
MEMBER (A)


(M.L. CHAUHAN)
MEMBER (J)

AHQ

13.08.2009

OA No. 149/2005

Mr. P.V. Calla, Counsel for applicant.
Mr. Gaurav Jain, Counsel for respondents.

Heard learned counsel for the parties.

For the reasons dictated separately, the OA is disposed of.


(B.L. KHATRI)
MEMBER (A)


(M.L. CHAUHAN)
MEMBER (J)

AHQ

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH

Jaipur, this the 13th August, 2009

ORIGINATION APPLICATION NO. 149/2005

CORAM:

HON'BLE MR. M.L. CHAUHAN, JUDICIAL MEMBER
HON'BLE MR. B.L. KHATRI, ADMINISTRATIVE MEMBER

R.D. Meena son of Shri Murli Meena, aged about 48 years, at present working as Statistical Investigator Grade III, scale Rs.5500-9000/-, Office of the Director (Northern Zone), National Sample Survey Organisation (Field Operation Division), Jaipur, resident of Quarter NO. 40, Type III, CPWD Quarter, Nirman Vihar, Vidyadhar Nagar, Sector - 2, Jaipur.

.....APPLICANT

(By Advocate: Mr. P.V. Calla))

VERSUS

1. Union of India through Secretary to the Government, Government of India, Ministry of Statistics & Programme Implementation, Sardar Patel Bhawan, Sansad Marg, New Delhi.
2. The Director General/CED, Ministry of Statistics & Programme Implementation, National Sample Survey Organisation (Field Operations Division), Sardar Patel Bhawan, Sansad Marg, New Delhi.
3. The Additional Director General, Ministry of Statistics & Programme Implementation, National Sample Survey Organisation (Field Operations Division), East Bock No. 6, Level 4, 6 and 7, R.K. Puram, New Delhi.
4. The Director (Northern Zone), Ministry of Statistics & Programme Implementation, National Sample Survey Organisation (Field Operation Division), 70/149-154, Patel marg, Mansarovar, Jaipur.
5. The Joint Director, Ministry of Statistics & Programme Implementation, National Sample Survey Organisation (Field Operations Division), Rajasthan East, 70/149-154, Patel Marg, Mansarovar, Jaipur.
6. Shri Upendra Kumar Saxena, Statistics Investigator Grade II, Office of Joint Director, Ministry of Statistics & Programme Implementation, National Sample Survey Organisation (Field Operation Division), Rajasthan East, 70/149-154, Patel Marg, Mansarovar, Jaipur.

.....RESPONDENTS

(By Advocate : Mr. Gaurav Jain)

W.L.

ORDER (ORAL)

The applicant has filed this OA thereby praying for the following reliefs:-

- "(i) By an appropriate writ, order or direction direct the official respondents to absorb the applicant on the post of Statistical Investigator Grade II (Superintendent), scale Rs.6500-10500 from the date when the person junior to the applicant was absorbed with all consequential benefits.
- (ii) further by an appropriate writ, order or direction direct the official respondents to include the name of the applicant in seniority list Annexure A/1 at appropriate place in the cadre of Statistical Investigator Grade II by deleting his name from the list of officers absorbed on the post of Statistical Investigator Grade II (Annexure A/2).
- (iii) Any other relief to which the applicant is found entitled, in the facts and circumstances of the present case, may also be granted in favour of the applicant.
- (iv) The Original Application may kindly be allowed with costs."

2. The case of the applicant in this ^{OA} ~~case~~ is regarding his absorption on the post of Statistical Investigator in the pay scale of Rs.6500-10500, for which purpose persons in the pay scale of Rs.5500-9000 were made eligible. The grievance of the applicant was that although the said scale has been granted to junior officials to the applicant but the same has been declined to him. It is on the basis of these facts, the applicant has filed this OA thereby praying for the aforesaid reliefs.

3. The claim of the applicant was opposed by the respondents. However, during the pendency of this OA, the respondents have placed on record the order dated 15.01.2009, which was taken on record. Perusal of this order reveals that the Committee examined the suitability of the applicant and one Shri Rajinder Kumar, both regular Assistant Superintendent of Jaipur and Karnal respectively for absorption and appointment in the Subordinate Statistical Service as Statistical Investigator Grade II in the pre-revised pay scale of Rs.6500-10500/- with effect from 01.05.2005 and accordingly they were recommended for absorption/appointment with effect from that date. When the matter was listed on 05.05.2009, this Tribunal passed the following order:-

"The main case of the applicant is that he was entitled to scale of Rs.6500-10500/- w.e.f. 01.04.2004 on the post of Statistical Investigator Grade II. The grievance of the applicant is that such benefit has been extended to his juniors whereas no such benefit has been granted to him.

The respondents have filed reply. During the pendency of this OA, the respondents have placed on record a copy of the order dated 15.01.2009, which has been annexed with MA No. 121/2009. Perusal of this document reveals that the applicant has been granted aforesaid scale w.e.f. 01.05.2005 instead of 01.04.2004; as such the grievance of the applicant has been substantially redressed. As can be seen from Para No. 3 of the order dated 15.01.2009, it has been mentioned that the Committee did not recommend the name of the applicant for absorption and appointment in the Statistical Investigator Grade II of the service when the matter was examined by the committee at the time of initial constitution of service.

The respondents are directed to produce the relevant record of the committee who examined the matter at the initial stage."

4. When the matter was listed on 21.07.2009, the respondents have produced the minutes of the Selection Committee held on 14.02.2004 and 17.02.2004. Today, learned counsel for the respondents produced copy of the OM dated 30.07.2009, which has been taken on record. Perusal of the minutes of the Selection Committee held on 14.02.2004 and 17.02.2004 reveals that the Bench mark for absorption/appointment in the aforesaid grade was 'Good'. It is further ~~clarified~~ ^{clear} that respondents have considered more than 800 persons out of which only 11 persons including the applicant were found 'Unfit'. The report of the Selection Committee further reveals that the cases of 6 persons were deferred due to some clarification/adverse entries in the CRs. Further, from the perusal of the letter dated 30.07.2009, it is evident that when the matter of the applicant was considered by the Selection Committee held on 14.02.2004 and 17.02.2004 in which the applicant was declared 'unfit' for promotion to the post of Statistical Investigator in the pay scale of Rs.6500-10500, the ACRs of the applicant was considered and his overall ACRs grading in each year is as under:-

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Year	Grading
1998-1999	Average
1999-2000	Good
2000-2001	Average
2001-2002	Average
2002-2003	Average

5. Thus in view of the grading of the applicant in the aforesaid term, the applicant has not obtained Bench mark i.e. 'Good'. Thus in view of the material placed on record, no specific finding can be given to the effect that applicant should be absorbed/appointed with effect from 01.05.2004. It is, however, made clear that in case the applicant is still aggrieved by his non absorption with effect from 01.05.2004, it will be permissible for him to file substantive OA thereby taking all permissible ground in view of subsequent material placed on record, which grounds the applicant could not have taken in this OA. The copy of the OM dated 30.07.2009 and the minutes of the Selection Committee held on 14.02.2004 and 17.02.2004 have been handed over to the learned counsel for the applicant.

6. With these observations, the OA is disposed of with no order as to costs.


(B.L. KHATRI)
MEMBER (A)


(M.L. CHAUHAN)
MEMBER (J)

AHQ