

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH

Jaipur, this the 12th day of September, 2008

ORIGINAL APPLICATION No. 320/2005

CORAM:

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

Sudarshan Gaur
s/o Shri Jagdish Gaur,
r/o Village Chittoroli More,
Post Bagru,
District Jaipur (Raj.)

.. Applicant

(By Advocate: Shri Arun Sharma)

Versus

1. Union of India ;
through the Secretary,
Department of Science and Technology,
Technology Bhawan,
Mehroli Road,
New Delhi.
2. Surveyor General of India,
Survey of India,
Surveyor General Office,
Post Box No.37,
Dehradoon,
Uttranchal.
3. Additional Surveyor General,
Rajasthan GEO-Spatial Data Centre
Great ARC Bhawan-1,
Sector-10,
Vidyadhar Nagar,
Jaipur

.. Respondents

(By Advocate: Shri Kunal Rawat)

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O R D E R

Per Hon'ble Mr. M.L.Chauhan, M(J)

The applicant has filed this OA thereby, inter alia, praying that appropriate direction may be given to the respondents to conduct fresh selection for making appointment to the post of Top Trainee Type 'A' (T.T.T. 'A') by following proper procedure prescribed under the rules.

2. Brief facts of the case are that the Survey of India, Department of Science and Technology issued an advertisement for recruit of various posts including 14 posts of T.T.T. 'A' in Rajasthan which was published in the Hindi Newspaper, Rajasthan Partika, on 3.3.2005 and in Employment News dated 12-18.3.2005. The applicant having requisite qualification also submitted an application to respondent No.3 before the last date i.e. 20.3.2005. Copy of the advertisement has been placed on record at Ann.A1. As can be seen from the condition stipulated in the advertisement at Note No.1, it is evident that in case the department receives large number of applications in that eventuality they can resort to method of screening. The respondents have issued Admission Card to the eligible candidates after scrutiny. In the Admission Card details of selection procedure was also mentioned and the centre for examination was given as Tagore

Public School, Jaipur. The department also conducted Screening Test to limit number of candidates before main examination. The applicant cleared the Screening Test and thereafter he appeared in the written examination on 20.5.2005. The applicant qualified the written examination and as per procedure only those candidates who had qualified the written examination were allowed to Stereo Fusion Test on 22.4.2005 and after qualifying the same, the candidates were allowed to appear in the personal interview which was held on 23.4.2005. Result of the successful candidates was declared on the same date but name of the applicant was not in the list of selected candidates. Feeling aggrieved with the selection list dated 23.4.2005, the applicant has filed this OA on the following grounds:-

- (i) The department has not followed the procedure for recruitment as appears in the advertisement;
- (ii) The Admission Cards were taken back contrary to the procedure;
- (iii) The examination was started one hour late;
- (iv) Favoritism was shown to the departmental candidates;
- (v) The question paper of Maths was not bilingual;
- (vi) The marks of screening Test, Stereo Fusion Test were not added with the marks of interview for determining the merit of successful candidates and
- (vii) Sufficient candidates of General Category were not called for interview.

3. Notice of this application was given to the respondents. The respondents have filed reply. In the reply, the respondents have taken a preliminary

objection regarding maintainability of the OA on the ground that the applicant who has taken part in the process of selection cannot challenge the selection in the eventuality of being unsuccessful. It is further stated that the selection procedure adopted by the respondents was as per the procedure given in the Advertisement dated 3.3.2005 and there is no provision in the rules and procedure for adding the marks of Screening Test and Stereo Fusion Test with marks of interview in order to determine marks of a candidate. According to the respondents, the Screening Test was held to limit the number of candidates to appear in the main examination and Stereo Fusion Test is conducted only to know the Stereo vision capacity of a candidate which is merely qualifying test. It is further stated that Admission Cards were taken back only to confirm the identity of the candidate so that no bogus candidate can appear in the examination. The respondents have denied that the examination started one hour late and that any favoritism was given to the departmental candidate in the matter of selection. According to the respondents, the standard of examination was of Degree Standard of University and paper of Maths need not be bilingual. Moreover, no objection was raised by any candidate regarding this at the time of appearing in the examination. It is further stated that 216 candidates appeared with reference to the advertisement dated 3.3.2005 and

after Screening Test only 79 candidates were found eligible for the main examination and after the main examination only 31 candidates were found eligible for personal interview as per the criteria laid down by the Surveyor General of India. The respondents have further stated that there is no rule to invite minimum three times candidates for personal interview, as alleged by the applicant in the OA. Thus, according to the respondents, the applicant has got no case.

4. The applicant has filed rejoinder thereby reiterating the stand taken in the OA.

5. We have heard the learned counsel for the parties and gone through the material placed on record.

6. The main grievance of the applicant is regarding the fact that undue favoritism was given to the departmental candidates and even the respondents have not followed their own instructions whereby it was stipulated that as per the criteria laid down by the department, zone of consideration for the purpose of interview should be restricted to the minimum of two times the number of vacancies. According to the learned counsel for the applicant there were 8 vacancies for General Candidates against which 13 candidates were called whereas against 3 vacancies advertised for OBC, 12 candidates were called for

interview and this method was adopted by the respondent solely to favour three departmental candidates who belong to OBC category. According to the learned counsel for the applicant, out of three OBC departmental candidates, three OBC candidates were put in the merit of the general category. Regarding other procedural lapses that the respondents have not added marks of Stereo Fusion Test and question paper of Maths was not bilingual, the learned counsel for the applicant has not made any serious challenge and rightly so because on that account no prejudice was caused to the applicant.

It is admitted case between the parties that the applicant qualified the Screening Test as well as written test but he was not declared successful in the interview. Even otherwise also, the respondents have given valid reasons for resorting to Screening Test and Stereo Fusion Test and for not adding marks of interview. From the material placed on record, it is evident that the selection of the departmental candidate was on the basis of their own merit and the applicant has failed to show that some favour was extended to them by the department. In the Interview Board there was one extra member so as to maintain fairness in the selection. Out of 79 candidates who were found eligible for main examination only 31 candidates were selected for personal interview including the applicant. However, name of the

applicant could not find mention in the merit list of the selected candidates. The contention of the applicant that zone of consideration should have been extended three time of the number of vacancies does not improve the case of the applicant, rather this will defeat case of the applicant as in case the zone of consideration is extended by three times, the applicant will have lesser chances of selection as compared to 31 candidates who were considered against 14 vacancies. As already stated above, the applicant has not made out any case that the procedure adopted for selection of the candidates was not transparent, fair, just and proper. Thus, the vague allegation of the applicant that entire procedure was adopted to favour departmental candidates cannot be accepted.

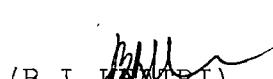
7. Further, whether a candidate can be allowed to challenge the selection procedure/criteria after participating and declaring unsuccessful in it is no longer res-integra. The Apex Court has repeatedly held that a candidate who had failed in the selection cannot challenge the selection procedure/criteria after participating in the selection. At this stage, it will be useful to quote decision of the Apex Court in the case of Sanjay Kumar and Others vs. Narinder Verma and Others, 2006 (2) SCSLJ 135. Similar view was also taken in the cases of University of Cochin Vs. N.S.Kamjoon Jamma and Others, AIR 1977 SC 2083;

Unemployed Union Kalkote vs. State of Jammu & Kashmir,
1998(2) SCT 685 and Union of India and Another vs.
N.Chandra Sekharan and Ors., 1998 (3) SCC 694.

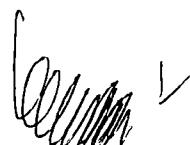
Thus in view of the law laid down by the Apex Court,
 the applicant is not entitled to any relief.

8. Yet for another reason, no relief can be granted to the applicant. The applicant has not impleaded the selected persons as party in this OA, as such, no relief can be granted to the applicant as prayed for which will definitely affect right of 14 persons who have been selected pursuant to the aforesaid selection. Even on this ground, the applicant is not entitled to any relief.

9. Thus, viewing the matter from any angle, we are of the view that the applicant has no case for our interference. Accordingly, the OA stands dismissed with no order as to costs.


 (B.L.KHATRI)

Admv. Member


 (M.L.CHAUHAN)

Judl.Member

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