

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH

Jaipur, this the 15th day of March, 2010

OA No.106/2007

CORAM:

HON'BLE MR. M.L.CHAUHAN, MEMBER (JUDL.)
HON'BLE MR. B.L.KHATRI, MEMBER (ADMV.)

Mukesh Chand
s/o late Shri Kishan Murari
r/o House No.1076/19,
Galim Mali Ka Bada,
Nagra,
District Ajmer.

.. Applicant

(By Advocate: Shri P.N.Jatti)

Versus

1. Union of India
through the Secretary
to the Government of India,
Ministry of Mines,
Shastri Bhawan,
New Delhi.
2. The Secretary,
Government of India,
Department of Expenditure,
(Implementation Cell),
Ministry of Finance,
North Block,
New Delhi.
3. The Controller General,
Indian Bureau of Mines,
Indira Bhawan,

Civil Lines,
Nagpur.

4. The Sr. Administrative Officer,
Indian Bureau of Mines,
Nagpur.
5. The Asstt. Administrative Officer,
Indian Bureau of Mines,
Nagpur.

.. Respondents

(By Advocate: Shri D.C.Sharma)

ORDER (ORAL)

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

- “(a) By an order or direction directed to respondent to give the appointment to the applicant on the post of Field Orderly in pursuance of interview held on 25.06.1998.
- (b) By an order or direction held the order dated 2.3.2006 (Annex.A-2) by which the interview held on 25.06.1998 is cancelled illegal.
- (c) By an appropriate order and direction directed to respondents not to give effect the advertisement dated 14.10.2006 (Annex.A-11).
- (d) Any other order, relief or direction which this Hon'ble Tribunal may deem fit and proper be also passed in favour of the applicant.
- (e) Cost of the original application may kindly be award to the applicant.

2. In this case the applicant has challenged the advertisement dated 14.10.2006 (Ann.A/1) whereby various posts including the post of Field Orderly have been advertised. The grievance of the applicant in this case is that he was already selected for the post of

Field Orderly in the interview held on 25.6.1998, as such, it was not permissible for the respondent not to act upon the panel so prepared in the year 1998 and to re-advertise the vacancy again.

3. The respondents have filed reply. The facts, as stated above, have not been disputed. However, it has been stated that the recommendations of the Selection Committee in respect of the interview held on 25.6.1998 have not been implemented due to administrative reasons and as such, the vacancy of Field Orderly has been re-advertised in the year 2006. It is further stated that validity of the panel is one year, which can be extended by another six months in the exceptional circumstances. It is further clarified in the reply that recommendations of the Selection Committee in respect of the interview held on 25.6.1998 could not be implemented due to certain reasons which was accordingly informed to the applicant, as such, the applicant is raising the time barred issue.

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

5. Facts remain that recommendation of the Selection Committee in respect of the interview held on 25.6.1998 has not been acted by the competent authority. Thus, in view of this admitted fact and the fact that the validity of the panel is for one year which can be extended for six months in exceptional circumstances, the question which requires our consideration is whether a writ of mandamus can be issued to the respondents not to proceed further pursuant to the advertisement Ann.A/1 and the

applicant be given appointment on the basis of the recommendations so made by the Selection Committee on the basis of the interview held on 25.6.1998. According to us, the law on this point is no longer res-integra. The Apex Court has repeatedly held that no direction can be issued to the authority to implement the panel where validity of the panel has already expired. We need not to quote various decisions so rendered by the Hon'ble Apex Court on this point. At this stage, we wish to quote a decision of the Apex Court in the case of State of Bihar and Ors. vs. Amrendra Kumar Mishra, JT 2006 (12) 304 whereby the Apex Court has held that since life of the panel prepared by the Selection Board remained valid for one year only, no appointment can be made from the said panel after expiry of the said period unless the Government issues appropriate order. It was further held that the respondent before the Apex Court did not have any legal right to be appointed and the High Court erred in giving a direction for appointment only on the ground of sympathy. That was a case where pursuant to the advertisement issued in the year 1987, selection process was completed in the year 1992. The respondent before the Apex Court was also selected and directed to join within 15 days vide letter dated 21.2.1992. The respondent however could not join within the stipulated period. In the years 1994, the respondent before the Apex Court made a representation seeking appointment stating that he has not received the appointment letter sent in the year 1992 followed by similar representation in the year 1995 and 2000. Ultimately, the respondent before the Apex Court

filed writ petition in the year 2001 before the Hon'ble High Court and the High Court directed the Government to permit the respondent to join services. It was under this context, the matter was carried before the Apex Court and the Apex Court held that no such direction could have been given by the High Court where validity of the panel has already expired. The case of the applicant in this OA ✓ is on much weaker footing. In this case the competent authority has not even accepted recommendations of the Selection Committee, as such, the question of giving appointment to the applicant does not arise. Thus, according to us, the applicant has got no indefeasible right to claim appointment on the basis of the recommendation made by the Selection Committee which has not been approved by the competent authority. Thus, we see no infirmity in the action of the respondents whereby they have issued fresh advertisement for appointment to the post of Field Orderly against which post the applicant can also compete.

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


(B.L. KHATRI)
Admv. Member


(M.L. CHAUHAN)
Judl. Member

R/