Central Administrative Tribunal
Jaipur Bench, JAIPUR

This the 21st day of July, 2010

Hon'ble Mr. M.L.Chauhan, Member (Judicial)
Hon'ble Mr. K.S.Sugathan, Member(Administrative)

OA No. 293 of 2008

Shri Bhagwan Sahai Mali S/o Shri Narain by cast Mali age about 30 years R/o Plot No. 46, Govind Watika Laxman Doongri, Delhi by pass Jaipur, presently working as Casual Labour in the office of Chief Commissioner Custome and Central Excise, Jaipur-1

..... Applicant

(By Advocate: Shri P.N. Jatti)

- Versus -

1. Union of India, through the Secretary,
   Ministry of Finance, Vittya Bhawan
   New Delhi.

2. The Chief Commissioner,
   Custom and Central Excise Department,
   Govt of India, N.C.R. Building,
   Statue Circle, Jaipur

3. Commissioner, Custom and Central Excise Jaipur-I
   N.C.R. Building, Statue Circle Jaipur

..... Respondents

(By Advocate: Shri Hemant Mathur)

OA No.294 of 2008

Shri Surendra Kumar Parsoia S/o Shri Ghasi Lal Parsoia age about 31 years R/o 951, Near Raigar Moholla Manoharpura, Kacchibasti, Jagatpura, Jaipur, presently working as Casual Labour in the office of Chief Commissioner Custome and Central Excise, Jaipur-1 ..... Applicant

(By Advocate: Shri P.N. Jatti)

- Versus -

1. Union of India, through the Secretary,
Ministry of Finance, Vittya Bhawan
New Delhi.

2. The Chief Commissioner,
Custom and Central Excise Department,
Govt of India, N.C.R. Building,
Statue Circle, Jaipur

3. Commissioner, Custom and Central Excise Jaipur-I
N.C.R. Building, Statue Circle Jaipur

..... Respondents

(By Advocate: Shri Hemant Mathur)

OA No.295 of 2008

Shri Ghanshyam Gurjar S/o Shri Kalu Ram Gurjar by cast Gurjar age about 28 years R/o Plot No. 1/A-22, Subhash Colony, Shanti Nagar, Jaipur, presently working as Casual Labour in the office of Chief Commissioner Customs and Central Excise, Jaipur-1

..... Applicant

(By Advocate: Shri P.N. Jatti)

- Versus -

1. Union of India, through the Secretary,
Ministry of Finance, Vittya Bhawan
New Delhi.

2. The Chief Commissioner,
Custom and Central Excise Department,
Govt of India, N.C.R. Building,
Statue Circle, Jaipur

3. Commissioner, Custom and Central Excise Jaipur-I
N.C.R. Building, Statue Circle Jaipur

..... *Respondents*

(By Advocate: Shri Hemant Mathur)

OA No. 296 of 2008

Shri Manoj Kumar Suwal S/o Shri Kalu Ram Suwal age about 30 years R/o 2801, Purohitji Ka Rasta , Chandpole Bazer, Jaipur, presently working as Casual Labour in the office of Chief Commissioner Customs and Central Excise, Jaipur-1

..... Applicant

(By Advocate: Shri P.N. Jatti)

- Versus -

1. Union of India, through the Secretary,
   Ministry of Finance, Vittya Bhawan
   New Delhi.

2. The Chief Commissioner,
   Custom and Central Excise Department,
   Govt of India, N.C.R. Building,
   Statue Circle, Jaipur

3. Commissioner, Custom and Central Excise Jaipur-I
   N.C.R. Building, Statue Circle Jaipur

..... Respondents

(By Advocate: Shri Hemant Mathur)

O R D E R (ORAL)

These four OAs can be disposed of by a common order as common question of facts and law are involved in all these cases.

2. The respondents intended to hold selection test for the post of Sepoy (General Central Service Group'D' Non-gazetted, Non-Ministerial) in the office of the Customs& Central Excise, located in the State of Rajasthan and for that purpose Advertisement Annexure A-2 was issued. As can be seen from the advertisement, the selection procedure has also been prescribed

in para 6 which is in the following terms:- " Selection Procedure: A physical test will be conducted for the eligible candidates as per the prescribed physical standard and those found physically fit will be called for the interview. In case the applications for the said posts are received in thousands, this office reserves the right to select the procedure for selection of candidate for the post of Sepoy (Group "D").

3. Since large numbers of applications were received, the respondents decided to short list the candidates and conducted a screening test of 200 marks and the persons who secured 120 cut of marks were only called for physical test and interview. Since the applicants did not secure 120 cut of marks, they could not be permitted to appear in the physical test and interview. However, by virtue of the stay granted by this Tribunal in the earlier OA's filed by the applicants, they were permitted to appear in the physical test as well as final interview, which was of 500 marks. From the material placed on record it is evident that in all 394 candidates (381+9) applicants in OA's in C.A.T., Jaipur Bench plus 4 other applicants in the OAs in C.A.T., Jodhpur Bench) were called for physical test and final interview. Out of total 500 marks cut of marks for the General category was 412, for the OBC 351, for the SC 350 and for the ST it was 378 marks

and on the basis of merit result of 27 candidates (24 existing + 3 anticipated) was declared on 30.07.2008 and accordingly24+1 (total 25) candidates were given offer of appointment for the post Sepoy (Group 'D') vide memorandum dated 31.07.2008 and the memorandum (In respect of one candidate) dated 8.8.2008 and 21 candidates who found fit in medical test have joined and some candidates were granted extension for joining after consideration of their request.

4. Grievance of the applicants in all these cases is regarding Annexure A-1 dated 30.7.2008 i.e. the final result of physical test and interview for the post of Group 'D' Sepoy held by the respondents. The applicant have prayed that the said order dated 30.7.2008 be quashed and set aside with further prayer that selection be conducted in terms of the prescribed procedure in the advertisement Annexure A-2 which has been re-produced hereinabove. As can be seen from the pleadings made by the parties, grievance of the applicants in all the cases is regarding procedure of short listing of candidates as adopted by the respondents. It has been contended by the learned counsel for applicants that the respondents have resorted to short listing of candidates in arbitrary manner, which was not prescribed in the advertisement. It is further contended that the respondents have adopted pick and choose policy while allotting marks while short

listing the candidates, thereby holding the applicants ineligible for the purpose of final selection based on physical test and interview.

5. We have given due consideration to the submission made by learned counsel for the parties. We are of the view that the grievance raised by the applicants for quashing selection list of candidates Annexure A-1 on the premise that respondents should not have resorted to short listing of candidates and list of the candidates who have been successful in the preliminary interview be quashed and applicant be held eligible for further selection on the basis of physical test and interview is without any basis and the same deserves to be out-rightly rejected. As can be seen from the selection procedure which find mention in para 6 of the advertisement, the relevant portion which has been re-produced above, no doubt final selection/merit list was to be prepared on the basis of physical test and interview but where the applications are received in thousands, the right was reserved with the department to adopt procedure regarding short listing of candidates for final selection. From the material placed on record, it is evident that the respondents have conducted the final selection based on physical test as well as interview and have declared the result as per Annexure A-1 strictly

inconformity with the procedure prescribed in the advertisement and only those candidates who qualified the physical test and interview on merit basis have been shown successful. The contention of the learned counsel for applicants that the respondents should not have resorted to short listing of candidates can not be accepted in view of the second part of para 6 where selection procedure itself made it clear that "in a case large number of applications are received, the office reserves the right for the post of Group 'D' Sepoy selection". Admittedly, in this case as per the stand taken by the respondents in the reply, more than 16500 applications were received for filling up 27 vacancies. It was under these circumstances that the respondents have reserved the right to short list the candidates by conducting preliminary test /interview of 200 marks. Thus, contention of the applicants that the respondents should not have been conducted the preliminary test/ interview of 200 marks is without any basis. That apart, the applicants cannot have any grievance for short listing the candidates, inasmuch as by virtue of the interim stay granted by this Tribunal, applicants were permitted to appear in the physical test and interview. The respondents have categorically stated that the selection list of the candidates was prepared as per merits obtained in the physical test and interview in which name of the applicants do not find

mention. The applicants have not challenged the validity of the order dated 30.7.2008 on merits or other permissible grounds such as malafide, proper procedure was not adopted, the applicants were more meritorious than the other candidates etc.. Further the applicants have also not impleaded selected candidates as party respondents in these OAs being affected parties as such without hearing affected parties no relief can be granted to the applicants and select list Annexure A-1 cannot be quashed. Accordingly, these OAs are bereft of merits and the same are dismissed with no order as to the costs.

(K.S.Sugathan)
Member (Administrative)

(M.L.Chauhan)
Member (Judicial)

mk

Copy given vide
No: 6918 692
23/7/10

16/11/12

दिनांक..... के आदेशानुसार मेरी उपस्थिति में दिनांक 16/11/12 को भाग-II व III नष्ट किए गये।

Section Officer (Judicial)
Central Administrative Tribunal
Jaipur Bench, JAIPUR