

CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH, JAIPUR

ORIGINAL APPLICATION NO. 764/2013
&
ORIGINAL APPLICATION NO. 291/00700/2014

DATE OF ORDER: 12.08.2015

CORAM

HON'BLE MR. JUSTICE HARUN-UL-RASHID, JUDICIAL MEMBER
HON'BLE MS. MEENAKSHI HOOJA, ADMINISTRATIVE MEMBER

OA No. 764/2013

Chhuttan Lal Meena S/o Shri Sukh Ram Meena, aged about 39 years,
R/o 34, Village Post Tundila, Tehsil Bamanwas, Distt. Sawai
Madhopur, Rajasthan.

...Applicant

Mr. Ravi Chirania, counsel for applicant.

VERSUS

Joint Secretary (Recruitment), Union Public Service Commission,
Dholpur House, Shahjahan Road, New Delhi - 110069.

...Respondent

Mr. Mukesh Agarwal, counsel for respondent.

OA No. 291/00700/2014

Dharmendra Kumar S/o Shri Girdhar Singh, aged 34 years (D.O.B.
25/06/1980) R/o 71/283, Patel Marg, Mansarovar, Jaipur.

...Applicant

Mr. Tanveer Ahmed, counsel for applicant.

VERSUS

1. Union of India through its Secretary, Ministry of Commerce and Industry, Department of Industrial Policy and Promotion Udhog Bhawan, New Delhi.
2. Union Public Service Commission through its Chairman, Dholpur House, Shahjahan Road, New Delhi - 110069.

...Respondents

Mr. Mukesh Agarwal, counsel for respondent no. 2.

None present for respondent no. 1.

ORDER
PER MR. JUSTICE HARUN-UL-RASHID, JUDICIAL MEMBER

The Original Application No. 764/2013 is filed challenging the action of the respondents in not calling the applicant for interview, for declaration that the applicant is entitled for interview for the post of Deputy Controller of Explosives in Petroleum and Explosive Safety Organization (PESO), Department of Industrial Policy and Promotion, Ministry of Commerce and Industry and for further direction directing the respondents to call the applicant for interview for the said post and for other consequential reliefs.

2. The Original Application No. 291/00700/2014 is filed seeking a direction directing the respondents to prepare the reserve list and also to operate the same and accordingly the applicant may be ordered to be given appointment without any further delay with all consequential benefits.

3. Both the Original Applications pertain to the appointment to the post of Deputy Controller of Explosives in Petroleum and Explosive Safety Organization pursuant to the advertisement No. 7/2012 vide Employment News dated 14-20 July 2012. Since the issues involved in both the cases are similar and linked, we propose to dispose of both the matters by this common order.

4. The brief facts as mentioned in OA No. 764/2013 is that as per advertisement No. 7/2012, 42 posts of Deputy Controller of Explosives in Petroleum and Explosive Safety Organization were advertised, out of which 04 posts were reserved for Scheduled

Tribes but later on by corrigendum it was clarified that there shall be 04 posts of Scheduled Caste and 05 posts of Scheduled Tribes candidates. The qualification and other details are published in the advertisement No. 07/2012 (Annexure A/1). The qualifications are also extracted in OA No. 764/2013. In addition to the qualifications, the advertisement contains the details regarding 'instructions & additional information to candidates for recruitment by selection'. It is mentioned in the advertisement that in the event of number of applications being large, Commission will adopt short listing criteria to restrict the number of candidates to be called for interview to a reasonable number by any or more of the methods published in the advertisement. The candidates are required to fill the application form completely without leaving any column blank or concealing or suppressing information and further to send all the documents as mentioned in the advertisement and also marked/mentioned in the ORA the hard copy of the printout of the application. In the advertisement, it is stated that certain documents as mentioned therein are essential to be submitted along with the Printout of the Online Recruitment Application (ORA) by post/by hand, failing which the candidature would be summarily rejected. In the advertisement, it is further mentioned that after clearing the online examination, the successful candidates are to be invited three times of the advertised vacancies. At the time of interview, the candidates are required to produce the original documents/certificates as per instruction 7B.

5. It is submitted that for short listing the number of candidates to be called for interview, a recruitment test was conducted on

16.06.2013. The applicant in OA No. 764/2013 was assigned Roll No. 001089. He appeared in the said test. He failed to qualify the same.

6. Learned counsel for the applicant in OA No. 764/2013 contended that ineligible and incompetent candidates are permitted to appear in the online examination for the post of Deputy Controller of Explosives. The applicant satisfied all the qualifications and experience for the advertised post as he is having vast experience of handling the explosives for more than 10 years and, therefore, he deserves to be appointed on the advertised post.

7. It is also contended that it is the prime duty of the recruitment agency to scrutinize the application forms for the sensitive and important post before inviting the candidates for the examination, the selection must be made only from the competent and eligible candidates but the respondents have completely avoided that duty and invited the candidates who were ineligible for the reason that they were not having the requisite qualification, experience, degrees etc. as on the last date of submission of application. Learned counsel for the applicant also submitted that after declaration of the result of the online written examination and interview, the respondents have published a list of 39 candidates who have been declared to be successful in the written examination. According to him, some of the candidates did not furnish the required information in the application form and suppressed certain information but they are now being permitted to cure the illegalities which cannot be

permitted as per law as ineligible candidate cannot be allowed to participate and appear in the written examination as well as interview and other stages of selection for the advertised post. In other words, learned counsel for the applicant contended that the selection should be made only from the eligible candidates and for this the method of short listing has been provided.

8. We have examined the pleadings, materials on record and the contentions of the respective parties. We find that the respondents framed guidelines for the effective completion of the recruitment process in a time bound manner. The Commission has conducted recruitment by advertising the posts strictly in conformity with the notified recruitment rules and for short listing the number of candidates to be called for interview a recruitment test was conducted on 16.06.2013. A detailed advertisement notice was published containing the scheme of examination, qualifications, scheme and syllabus for the test, etc. It is specifically mentioned in the advertisement notification that in the event of number of applications being large, commission will adopt short listing criteria to restrict the number of candidates to be called for interview to a reasonable number. The method to be followed for short-listing is also stated in the advertisement. On the basis of the advertisement, the Commission held a Computer Based Recruitment Test. It is also notified that his/her admission to the Test is strictly "provisional" and mere fact that an E-Admit Card has been issued in him/her name does not imply that the candidature has been finally cleared by the Commission or that the entries made by the

candidate in his/her application for the Test have been accepted by the Commission as true and correct.

9. It is also notified that the commission takes up the verification of eligibility conditions namely age, educational qualification, community etc. with reference to original documents only of those candidates who qualify in the recruitment test and that unless the candidature is formally confirmed by the Commission, it continues to be "provisional". It is also notified that if subsequent to the issue of e-Admit Card, ineligibility is detected at any stage before or after the Test or if the condition prescribed in the Rules and instructions given in the advertisement or any other additional information / documents at any stage are not complied with within the time specified therein, the candidature would be rejected. It is clear from the instructions given in the advertisement that the applications / documents are not being scrutinized and the candidates are being admitted to the recruitment test based on the data furnished by the candidates in the Online Recruitment Application System.

10. Annexure A/1 advertisement No. 7/2012 under the heading "Minimum Essential Qualifications", it is also stated that all applicants must fulfill the essential requirements of the post and other conditions stipulated in the advertisement. They are advised to satisfy themselves before applying that they possess at least the essential qualifications laid down for various posts. The advertisement was issued for recruitment of 42 posts. Out of 42 posts, 04 posts are reserved for SC candidates and 05 posts -

are reserved for ST candidates, 08 posts for OBC candidates and remaining 25 posts are unreserved. On the basis of the Recruitment Test, on 08.08.2013 the Commission has short-listed 130 candidates "provisionally". Physical scrutiny of documents/certificates of the candidates, who have been shortlisted after recruitment test was done by the outside experts in the relevant field / discipline.

11. In the reply filed by the respondents, it is stated that before calling the candidates, who fulfill/satisfy all eligibility conditions of the post for interview, copies of relevant documents/certificates of shortlisted candidates who qualify Recruitment Test are being scrutinized by the Commission. The documents in original are to be submitted at the time of interview. It is also stated in the reply that a list of candidates who have qualified recruitment test and satisfy / fulfill all the eligibility conditions to be called for interview is yet to be finalized. In the reply it is unequivocally stated that the Commission has not permitted any candidate who is not eligible in interview. The respondents also denied the allegations of the applicant that the respondents have permitted ineligible and incompetent candidates in selection.

12. It is also stated in the reply that the Commission received large number of applications in every recruitment, therefore, it is not possible to verify the eligibility of the candidates prior to recruitment test. Therefore, the commission permitted the candidates in the recruitment test on provisional basis and verify the eligibility only those candidates who qualify in the test. In

the present recruitment also, the Commission permitted all the candidates for the recruitment test and verifies the eligibility of the candidates who have qualified in the test. The applicant in the present case appeared in the recruitment test held on 16.06.2013 but he failed to qualify the recruitment test and therefore his name is not included amongst the shortlisted candidates and he was not called for interview. The allegations of the applicant that certain candidates have been permitted in the test without verifying their document of the eligibility is without any substance.

13. After examining the materials on record, we find that the Commission followed the procedure for selection in a foolproof manner. In the facts and circumstances of the case and for the reason that the applicant failed to qualify in the recruitment test held on 16.06.2013, he cannot seek the relief as sought in the O.A. The written test and interview was made on the basis of a reasonable classification based on consciously devised objective short listing criteria and by holding Recruitment Test by the Commission. Moreover, the applicant failed to implead any of the so called ineligible candidates as party respondent in the O.A.

14. We find that no sustainable grounds are made out by the applicant for a direction directing the respondents to call him for interview and participation in the subsequent selection process. He is also not entitled to declaration that he is entitled for interview for the post of Deputy Controller of Explosives in Petroleum and Explosive Safety Organization. In the facts and

circumstances discussed above, the applicant is not entitled to get any relief as sought for in the OA. In view of the above discussions, O.A. No. 764/2013 is dismissed.

15. In O.A. No. 291/00700/2014, the applicant was allotted Roll No. 620 and he participated in the written examination. He passed the written examination and he was called for interview vide letter dated 30.01.2014. In the reply, it is submitted that the final result of 41 posts, which include 12 posts for OBC was published on 08.03.2014. It is mentioned in the reply that out of 12 OBC candidates, 4 OBC candidates were recommended against unreserved vacancy and 8 against OBC category. It is further stated that the applicant failed to secure the suitability of marks for final selection, hence, was not recommended. It is also submitted that in connected OA No. 764/2014, an interim direction was issued by this Tribunal vide order dated 15.01.2014 to the effect that to keep one post in question vacant amongst ST category. It is also stated in the reply that the Commission has shortlisted 130 candidates for interview "provisionally" on 08.08.2013 subject to verification of documents and that as per the advice of Experts, 107 candidates were shortlisted for interview from amongst 130 qualified candidates in CBRT. It is also stated that the applicant was one of such shortlisted candidates. The interview for the said post of Deputy Controller of Explosives in Petroleum and Explosive Safety Organization was held from 24.02.2014 to 27.02.2014. One post for ST category was kept vacant as per the interim order dated 15.01.2014 passed in OA No. 764/2013.

16. The respondents in their reply stated that the recruitment process for the said post is not yet completed due to pendency of OA No. 764/2013 and also due to the interim order dated 15.01.2014. It is also submitted that Neha Copra who is one of the finally recommended candidates, has submitted her unwillingness vide letter dated 14.07.2014 to join in the said post to the Ministry of Industry & Commerce. The respondents took a stand that since all the OBC posts are exhausted, the applicant's name is not recommended. It is also stated that the result is not yet prepared.

17. It is also stated by the respondents in the reply that it is only after the completion of the recruitment process, the reserve list will be prepared and process for filling up of replacement vacancy arising due to unwillingness of one of the recommended candidate namely Ms. Neha Chopra to join the post, will be initiated as per the instructions.

18. Learned counsel for the applicant in OA No. 291/00700/2014 contended that one the candidates namely Neha Chopra whose merit position is at Sl. No. 6 in OBC category declined to join the post due to some personal reasons and resultantly one post out of total eight posts reserved for OBC category is vacant, and available on which the applicant is entitled to be appointed by virtue of his merit position if waiting list is operated. It is further contended that the applicant is at Sl. No. 9 in the merit in OBC category, therefore, the case of the applicant may be considered for appointment accordingly.

19. Thus, it is clear from the reply statement that no reserve list has been prepared by the Commission due to the pendency and the interim order passed by this Tribunal in OA No. 764/2013. Today, by this common order, we have dismissed the O.A. No. 764/2013, therefore, the interim order passed by the Tribunal vide order dated 15.01.2014 is no longer in force. Therefore, the respondents are at liberty to complete the selection process and prepare reserve list.

20. In the facts and circumstances as noticed above, we dispose of the O.A. No. 291/00700/2014 directing the respondents to complete the recruitment process and prepare the reserve list without further delay at any rate within a period of three months from the date of receipt of a copy of this order. There shall be no order as to costs.

21. A certified copy of this order be placed in O.A. No. 291/00700/2014.

(MS. MEENAKSHI HOOJA)
ADMINISTRATIVE MEMBER

(JUSTICE HARUN-UL-RASHID)
JUDICIAL MEMBER

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