

CENTRAL ADMINISTRATIVE TRIBUNAL,

CHANDIGARH BENCH

Date of decision: 28.10.2014

CORAM: **HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J)**
HON'BLE MS. RAJWANT SANDHU, MEMBER (A)**(I) O.A.NO.060/00158/2014**Shailendra Partap Singh S/o Sh. Narendra Partap Singh r/o
Village and Post Office Kattaiya, The. Lalgang, Distt. Partapgarh
Uttar Pardesh.

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Versus

1. Union of India through Secretary, Ministry of Defence,
CGO Complex, New Delhi.
2. Commanding Officer, 5121 ASC BN (MT), Pin 905121, C/o
56 APO.

Respondents

By: Mr. Hitesh Pandita, Counsel for the applicants.
Ms. Nimrat K. Gill, counsel for the respondents**✓(II) O.A.NO.060/00160/2014**Girja Shanker S/o Sh. Braj Kishor R/o Village Bhua, Post Office
Badagaon, Distt. Jalaun, Uttar Pradesh.

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Versus

Applicant

1. Union of India through Secretary, Ministry of Defence,
CGO Complex, New Delhi.
2. Commanding Officer, 5121 ASC BN (MT), Pin 905121,
C/o 56 APO.

Respondents

By : Mr. Hitesh Pandita, Counsel for the applicants.
Ms. Sumati Jund, proxy counsel for Mr. Rajesh Punj,
Advocate, for the respondents**(III) O.A.NO.060/00162/2014**

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Mohammad Husen S/o Sh. Bulaki R/o H.No. 6/129, Krishna Nagar (West) Village Bahua, Post Office Bahua Distt. Fatehpur Utter Pardesh.

Applicant

Versus

1. Union of India through Secretary, Ministry of Defence, CGO Complex, New Delhi.
2. Commanding Officer, 5121 ASC BN (MT), Pin 905121, C/o 56 APO.

Respondents

Present : Mr. Hitesh Pandit, Counsel for the applicants.
Mr. Sanjiv Sharma, counsel for the respondents.

ORDER

HON'BLE MR. SANJEEV KAUSHIK , MEMBER (J)

The commonness of facts and the question of law involved in these three Original Applications gives us a right to hear them together and dispose them off with this common order. However, for the sake of convenience the facts from OA No.060/00158/2014 are taken.

2. The applicant herein impugns the order dated 16.01.2014 whereby the respondents have rejected his candidature for the post of cleaner. The undisputed facts, as borne out from the conjunctive perusal of the pleadings, are that the respondents issued an advertisement in the Employment News dated 19.11.2011 and also in Punjab Kesari (Jalandhar Edition) dated 22.11.2011 inviting applications against 10 vacancies of Cleaners. The applicant, who was eligible, applied

for the above post. He was called for physical test to be conducted on 21.08.2012. He appeared and thereafter called for the written test which he also cleared and lastly he was called for interview on 22.08.2012. However, vide letter dated 17.12.2012 he was informed that he is provisionally selected subject to verification of his educational certificate, character verification and medical fitness and was advised to report in the Unit to submit certificates in original. Vide another letter dated 31.12.2012 the applicant was asked to appear for the medical examination to be conducted by the Chief Medical Officer, Gurdaspur, where he appeared. Thereafter while the applicant was waiting for the letter of appointment, he was surprised to receive the impugned letter dated 16.01.2014 whereby his candidature has been rejected on the ground that the attesting authority, who had attested his documents and verification, informed that he had in fact not attested those documents. Hence the present Original Application.

3. Pursuant to the notice, the respondents resisted the claim of the applicant by filing a written statement wherein they admitted the fact that the applicant had applied in response to the advertisement issued in two leading newspapers. The applicant was subjected to written test, interview and lastly he

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was directed to appear before a Medical Board for medical examination. Thereafter it was found that the attested copies of the documents submitted by the applicant were not actually attested by the purported authority, as the said authority had denied that he had ever attested those documents. Therefore, the matter was enquired into by the respondents and on the basis of factual position, his candidature has rightly been cancelled. It is submitted that as per the advertisement photo copies of the documents and the photograph of the candidate was required to be attested by a Class-I gazetted officer. Once the attestation was not according to the advertisement and is specifically denied by the authority allegedly attested the same, the Board of officers decided to cancel the candidature of the applicant, which was subsequently approved by the appointing authority vide noting sheet dated 15.01.2014.

4. No replication has been filed by the applicant.

5. We have heard Shri Hitesh Pandit, learned counsel for the applicant and Ms. Nimrat K. Gill, learned counsel for the respondents.

6. Shri Pandit vehemently argued that the action of the respondents in rejecting his candidature solely on the ground that the documents submitted in response to an advertisement

15

were not duly attested by the relevant authority, who had attested the same, is totally illegal, arbitrary and liable to be set aside for the simple reason that it is not that the applicant had submitted fake documents to secure the appointment. He submitted that the respondents can verify the genuineness of those documents from the Institutions who had issued the same. Merely because the attesting authority has denied that he had attested those documents, does not make the applicant ineligible for the post in question. The right course for the respondents was to verify the status of the certificates from the University or the Board which has issued the same and not to cancel the candidature of the applicant.

7. Per contra, Ms. Nimrat K. Gill, learned counsel appearing for the respondents vehemently opposed the prayer of the applicant on the ground that once the applicant did not fulfil the conditions as stipulated in the advertisement, his candidature has rightly been rejected by the respondents. To elaborate her arguments, she submitted that in the advertisement itself it has been categorically stated that the candidate has to submit the certificates duly attested by a class-I gazetted officer whereas in the case of the applicant the attestation of the documents was enquired into and the authority who had allegedly attested the

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documents has clearly denied that he had ever attested those documents. Based upon the above, it was decided by the respondents to reject to reject his candidature which is legal. To buttress her submissions, the learned counsel placed reliance on a decision of the jurisdictional High Court in the case of **Sushila Devi v. State of Haryana and another**, 2009 (6) SLR 661.

8. We have given our thoughtful consideration to the entire matter and perused the pleadings available on record with the able assistance of the learned counsel appearing for the respective parties.

9. The sole ground for rejecting the candidature of the applicant is that the attested copies of the documents submitted by the applicant were not genuine as those had not been attested by the officer whose seal was affixed on the same. It is not the case of the respondents either in the written statement or suggested at the time of arguments that the certificates submitted by the applicant are forged and that he lacks in educational qualifications for the posts in question. It is also not the case of the respondents that for securing the present appointment the applicant has committed any fraud or submitted false certificate. Merely because the authority who attested the documents of the applicant has denied that he had attested those



documents does not give a right to the respondents to act upon the same and cancel the very candidature of the applicant as they could very well verify the genuineness of those certificates by conducting an enquiry from the concerned quarters who had issued the same. The object behind asking for attested copies of the documents was only to ensure that no one plays fraud in securing a public appointment. It may be possible that the person who had attested the documents may have refused to acknowledge his signature but it is also not the case here that after refusal of the authority, who had purportedly attested those documents, the respondents have gone for securing the opinion of a handwriting expert. Considering these facts, we are of the view that the right course for the respondents was to ascertain the genuineness of those documents by asking the authorities who had issued the same so as to reach to the truth of the matter. The basic reason behind asking of attested copies at the time of application from a candidate is only to satisfy at that time that the candidate possesses the requisite qualification as per the advertisement which can be verified at the time of final selection by checking the original of those attested copies of documents. Based upon the same analogy, the nodal Ministry, i.e., Ministry of Personnel, Public Grievances and Pensions, Department of Administrative Reforms and Public Grievances



issued Office Memorandum dated 10th May, 2013 regarding self-certification, which for the sake of convenience, is reproduced below:

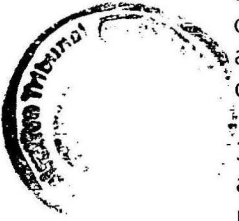
"Subject: Self-certification

The Second Administrative Reforms Commission in its 12th Report titled "Citizen Centric Administration -The Heart of Governance", has recommended, adoption of self-certification provision for simplifying procedures.

2. Taking a cue from this some Ministries/State Governments have adopted the provision of self-certification of documents like marksheet, birth certificate etc. by the applicants/stakeholders instead of asking for an attested copy of the documents by a Gazetted Officer or filing of affidavits. Under the self attestation method, the original documents are required, to be produced at the final stage.

3. You will appreciate that the above method is citizen friendly and obtaining either an attested copy or affidavit not only cost money but also involves wastage of time of the citizens and the Government officials.

3. It is requested to kindly review the existing requirements of attested copy or affidavit in various application forms in a phased manner and wherever possible make provision for self-certification of documents, after obtaining the approval of the competent authority."

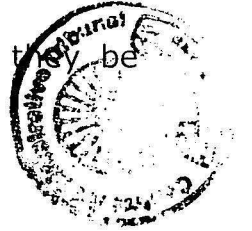


10. Perusal of the above makes it clear that to create a citizen friendly atmosphere, the Government of India itself has allowed the concerned individuals to submit self attested copies of the documents with a rider that at the time of appointment the original thereof has to be produced to avoid any fraud.

11. Considering the above factual position, we are left with no other option except to allow these three Original Applications, which are accordingly allowed to the extent that the

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impugned orders dated 16.01.2014, rejecting the candidatures of the applicants are hereby quashed and set aside. There is another reason for quashing the impugned order because before cancelling candidature of the applicant they have not complied with the well-established principles of natural justice by asking the applicant to produce the original certificate. The respondents are directed to verify the genuineness of the documents submitted by the applicants and if the same are found to be genuine, then in terms of their position in merit list, they be offered appointments to the posts of Cleaners. No costs.



12. Let a copy of this order be placed in each O.A.

(SANJEEV KAUSHIK)
MEMBER(J)

(RAJWANT SANDHU)
MEMBER (A)

Place: Chandigarh

Dated: 28.10.2014

'San.'

Certified True Copy
अनुभाग अधिकारी (न्याय) / Section Officer (Judicial)
केन्द्रीय प्रशासनिक न्यायालय
(Central Administrative Tribunal)
चण्डीगढ़ पीठ / Chandigarh Bench
चण्डीगढ़ / Chandigarh

8/11