

Reserved
(On 02.04.2018)

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Dated: This the **09th** day of **April** 2018

Original Application No 330/00122 of 2015

Hon'ble Dr. Murtaza Ali, Member – J
Hon'ble Mr. Gokul Chandra Pati, Member – A

Vivek Nand Jaiswal, S/o Sri Vinod Kumar Jaiswal, R/o infront of Kumar Talkies Dildarnagar Bazar, Dildarnagar, Ghazipur.

. . .Applicant

By Adv: Shri Raj Kumar Shukla & Ms. Sushmita Mukherjee

V E R S U S

1. Union of India through its Secretary, Ministry of Textiles, Govt. of India, New Delhi.
2. Secretary, Textiles Committee (Govt. of India, Ministry of Textiles) P. Balu Road, Prabhadevi Chowk, Prabhadevi, Mumbai – 400 025.
3. Presiding Officer, Textiles Committee, Govt. of India, Ministry of Textiles, 52, Patel Nagar, 1st Floor, Mint House, Nadesar, Varanasi -221 002.
4. Shri Rahuk Swroop Verma
5. Shri Laxman Machindra Shingare
6. Shri M. Satheesh
7. Shri V.N. Gowrisankar
8. Shri Ravi Kumar
(Respondent Nos. 4 to 8 are posted as QAO (EP & QA))

. . . Respondents

By Adv: Smt. Poonam Singh & Shri Arun Kumar Gupta

ORDER

By Hon'ble Mr. Gokul Chandra Pati, Member (A)

In this OA, the applicant, who had worked as a temporary employee (T.F.O.) under the Textile Committee (respondent No. 2 and 3) for two years, had applied for a post which was advertised by the respondents. Although the applicant was a candidate for the advertised post, but he could not be selected for the said post after written test and

interview. Aggrieved by his non-selection, the applicant has filed this OA with the following reliefs:-

- “i. To pass an order by cancelling the impugned order of the Selection Committee of the Textile Committee dated 25th September 2014 for the transparent selection of the candidate for the post of Q.A.O. (E.P. & O.A.) Group B;***
- ii. To pass an order by which the candidates having previous working experience with the Textile Committee should be considered and also preference to those candidates must be given.***
- iii. To issue any other order or direction, as this Hon’ble Tribunal may deem fit and proper on the fact and circumstances of the case.***
- iv. To award cost of this application to the applicant.”***

2. The facts in brief as per the OA are that the applicant had worked as temporary T.F.O. under the respondents for about two years from 09.05.2011 to 08.04.2012 and from 01.05.2013 to 30.04.2014. The respondents advertised for several posts vide the advertisement notification at Annexure A-4, in which one of the post was Quality Assurance Officer (in short QAO) for which the applicant submitted his application. He appeared in the written examination for selection of QAO and after qualifying in the written examination, he was called for interview. After interview, five candidates were selected in which the applicant was not included. It is submitted in the OA that three candidates in the select list had higher marks and two candidates lower marks than the applicant in the written test.

3. Main grounds taken by the applicants in the OA are as follows:-

- i. The applicant had more than two years of experience as TFO in the Textile committee where as some of the selected candidates had experience in another industry.
- ii. The applicant has more experience of the working in textile industry and also fulfils the eligibility criteria for which selected to the post of QAO.
- iii. Hon’ble Apex Court on various occasions has passed orders for preferring the candidate having working experience in that office.

- iv. The applicant having more than two work experience should have been given preference in selection than other candidates.

4. The respondents have filed the counter affidavit wherein it is stated that under the Textile Committee Employees (Recruitment) and Regulations Rules, 1968 (Annexure No. A-1), it is provided that 100% of the QAO posts would be filled up by direct recruitment. The said regulations also provide for procedure for the recruitment, where a written examination is to be conducted to select persons for interview by the Selection Committee. Accordingly, for the advertised post of QAO, written test was conducted on 05.07.2014 out of which 30 candidates were selected for interview based on the marks secured in the written examination and the interview was held on the same day i.e. 05.07.2014 the Staff Selection Committee which was constituted for the purpose decided to allow 100 marks for interview. The candidates were provided marks after interview and the Staff Selection Committee in the meeting held on 05.07.2014 selected six candidates vide the minutes dated 05.07.2014 of the Committee (Annexure CA-2). It was further stated that the all selected candidates except one were degree holders in textile technology and have considerable experience in a senior and responsible position in a reputed textile industry. One person having textile diploma was selected. He secured more marks in the diploma and more number of years of experience than the applicant. The applicant has about 03 years of experience in the textile committee. Hence it is contended that on merits, the applicant did not qualify and he was placed at Sl. No. 19 in the order of merit in the selection for the QAO post.

5. The applicant filed the rejoinder denying the stand taken in the counter it was submitted that the number of selected candidates had secured less marks than the applicant in the written examination, but they

got more marks in the interview. Further, they don't have working experience in the textile production in the Government sector.

6. Heard the learned counsels for both the parties. Applicant's counsel besides reiterating the stand in OA emphasized on the fact that a number of candidates finally selected had secured less marks than the applicant in the written test, but they were selected overlooking the case of the applicant. Respondents' counsel on the other hand argued that the selection for the advertised post is being conducted on merit as per the extant rules / regulations.

7. We have considered the submissions and pleadings by both the parties. The applicant had appeared for selection for the post which was advertised by the respondents and had not challenged the norms for selection, which was duly advertised by the respondents. He did raise any objection regarding the experience and other criteria which were advertised. As indicated in para 3 of this order, main grounds taken by the applicant in the OA related to the experience. Having appeared in the test which comprised of the written examination and interview, and not being successful finally in the selection, the applicant cannot challenge the criteria of selection adopted by the respondents. It is also not the case of the applicant that there is any violation of the recruitment rules / regulations under which the selection for the post was conducted by the respondents.

8. There are number of judgment of Hon'ble Apex Court laying down the principle that once a person appears in the selection process without any protest, he cannot challenge the selection after he fails in the selection process. The Hon'ble Apex Court in the case of ***Chandra Prakash Tiwari and others Vs. Shakuntala Shukla and others*** reported in ***(2002) 6 SCC 127*** has been pleased to observe that "in the event a

candidate appears at the interview and participates therein, only because the result of the interview is not “palatable” to him, he cannot turn round and subsequently contend that the process of interview was unfair or there was some lacuna in the process”.

9. In the case of Mehmood ***Alam Tariq and Others vs. State of Rajasthan and Others*** reported in **1988 (2) SLR 595**, the Hon’ble Apex Court has been pleased to observe that “it is important to keep in mind that in this case the results of the viva voce examination are not assailed on grounds of mala fides or bias etc. The challenge to the results of the viva voce is purely as a consequence and incident of the challenge to the vires of the rule. It is also necessary to reiterate that a mere possibility of abuse of a provision, does not, by itself, justify its invalidation”. The Hon’ble Apex Court in the case of ***Trivedi Himanshu Ghanshyam Bhai Vs. Ahmadabad Municipal Corporation*** reported in **2007 (8) SCC 644** has been pleased to observe that “accordingly, we are of the view that the High Court was neither justified in interfering with the appointment of the appellant by holding that he did not possess the requisite administrative experience of ten years while working as an x-ray technician nor was it open to the High Court to entertain the writ petition challenging the appointment of the appellant and other selected candidates at the instance of the unsuccessful candidates”.

10. In view of discussions and the case laws, it is not open to the applicant to challenge the selection criteria adopted by the respondents after participating in the selection process as per the advertisement at Annexure A-4. Accordingly, the OA being devoid of merit is liable to be dismissed, hence, it is dismissed. No order as to the costs.

(Gokul Chandra Pati)
Member (A)

(Dr. Murtaza Ali)
Member(J)

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