

**Central Administrative Tribunal
Principal Bench**

OA NO. 1199/2013

Order reserved on: 10.03.2016

Order pronounced on: 16.03.2016

Hon'ble Mr. V. N. Gaur, Member (A)

Hon'ble Mr. Raj Vir Sharma, Member (J)

Mahabir Singh Chillar
S/o Sh. Raghunath Singh
R/o Vill. Garhi Randala,
PO Nizampur, Delhi-81.

- Applicant

(By Advocate: Sh. U.Srivastava)

Versus

1. Union of India through
The Secretary,
Ministry of Health & Family Welfare,
Nirman Bhawan, New Delhi.
2. The Medical Superintendent,
Dr. Ram Manohar Lohia Hospital,
Govt. of India,
New Delhi.
3. The Administrative Officer,
Dr. Ram Manohar Lohia Hospital,
Govt. of India,
New Delhi.
4. Dr. T.S.Sidhu, Medical Superintendent,
Dr. Ram Manohar Lohia Hospital,
Govt. of India,
New Delhi.
5. Sh. Arjun Singh
Assistant Security Officer,
Dr. Ram Manohar Lohia Hospital,
Govt. of India,
New Delhi.

- Respondents

(By Advocate: Sh. T.A.Ansari)

ORDER**Hon'ble Shri V.N.Gaur, Member (A)**

The facts in brief are that applicant, an ex service-man, working as Security Guard under respondent no.2 was considered for the post of Assistant Security Officer (ASO) along with nine other employees by the DPC held on 09.10.2003 and his name was recommended for promotion to the post of ASO. One of the candidates considered by the DPC Sh. Arjun Singh, respondent no.5, also an Ex-Serviceman, challenged the DPC recommendations stating that he had passed Indian Army Class I Examination considered to be equivalent to Matric qualification. The respondents sought clarification from the Education Branch, HQ Delhi Area (Army) who forwarded a copy of instructions issued by DOP&T on 12.02.1986 stating that

“For appointment to any reserved vacancy in Gr. C & D post, where the prescribed minimum educational qualification is Matriculation, the appointing authority may at his discretion, relax the minimum educational qualification in favour of an Ex-serviceman who has passed Indian Army Class I Examination in the Navy or Air Force of the Union and is considered fit to hold the post in view of experience and other qualifications.”

2. The respondents thereafter appointed Sh. Arjun Singh, respondent no.5 as ASO as he fulfilled all conditions for the post as per Recruitment Rules. The applicant was reverted to the substantive post of Security Guard on 01.03.2006.

3. The applicant challenged that order in OA No.3924/2010 before this Tribunal. The Tribunal vide order dated 13.12.2011 set aside the order dated 01.03.2006 and directed that

“the competent authority may in its discretion, proceed afresh in the matter but only after affording an opportunity of a hearing to the applicant herein. It will be equally compulsive for the competent authority to take the observation made in the course of this order into consideration which may come about in the ordinary course”.

4. The respondents, in compliance of the directions of this Tribunal, issued OM dated 09.01.2013 after giving a personal hearing and ensuring that the matter relating to the reversion of the applicant from the post of ASO was revisited by the DPC. The respondents held the DPC on 17.01.2013 which again recommended respondent no.5, who was at Sl. No.1 in the zone of consideration, for appointment to the post of ASO w.e.f. 01.03.2006 and a formal order was issued on 06/08 February, 2013.

5. Learned counsel for the applicant submitted that this Tribunal in its order dated 13.12.2011 in OA No.3924/2010 had already noted that the DPC in its first meeting had rejected respondent no.5 (Sh. Arjun Singh) not on the ground of his not possessing the required qualification but on finding the applicant more suitable for the post on merits. He further submitted that there was a sad development after the filing of this OA that respondent no.5 is no more. Therefore, there should be no

difficulty for the respondents to now consider the applicant for the post of ASO which is lying vacant since 2013. He would not press for other reliefs claimed in this OA. Learned counsel for the respondents confirmed the fact that respondent no.5 was no more and that the respondents will have no difficulty in considering the request of the applicant for promotion to the post of ASO.

6. In view of the above position, the OA is disposed of with the direction to the respondents to consider the request of the applicant for promotion to the post of ASO against the existing vacancy in accordance with the rules and procedure within a period of six weeks from the date of receipt of a copy of this order. We hasten to clarify that we have not gone into the merits of the arguments raised regarding the validity of the DPC held on 17.01.2013 which reiterated the selection of Sh. Arjun Singh for the post of ASO w.e.f. 01.03.2006. OA is disposed of in term of above directions.

(Raj Vir Sharma)
Member (J)

(V.N. Gaur)
Member (A)

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