

**CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH**

OA No. 2251/2012

Reserved on 01.02.2017  
Pronounced on 07.02.2017

**Hon'ble Mr.P.K.Basu, Member (A)**  
**Hon'ble Dr. Brahm Avtar Agrawal, Member (J)**

Vipin Kumar  
S/o Late (Sh) Suresh Chand Sharma,  
R/o 1/DS/13/193  
Ordinance Factory Estate  
Muradnagar, District Ghaziabad  
(UP) (PIN 201206).

... Applicant

(Present : None )

**VERSUS**

Union of India through

1. Secretary, Government of India,  
Ministry of Defence, South Block,  
New Delhi.
2. Director General,  
Ordinance Factory Board,  
10A, Sahid Khudi Ram Bose Road,  
Kolkata.
3. General Manager,  
Ordinance Factory,  
Muradnagar, District Ghaziabad  
(UP) (PIN 201206).

... Respondents

(By Advocate: Mr. V.S.R. Krishna)

**ORDER**

**Hon'ble Mr. P.K.Basu, Member (A) :**

This is a matter pertaining to the year 2012 and on successive dates, the learned counsel for the applicant was not available to argue this matter. Therefore, considering that this is a very old matter, this order is being passed based on pleadings.

2. The applicant is Highly Skilled Technician (HST) with the respondents. Factory Board, Kolkatta directed various factories to fill up the posts of Chargeman (Technical) including vacancies occurring upto 31.03.2011. The respondents stated that the vacancies were calculated and the vacancy had to be intimated by 30.04.2010 for the LDC Exam. of 2010. As on that date there were 6 vacancies of Chargeman (T/Mechanical), namely, SC 2, ST-1 and UR-3. The vacancies were evaluated as occurring and available upto 31.03.2011 and notified vide letter dated 19.04.2010.

3. 14 applications were received for the LDCE and 13 candidates appeared for the examination. Out of 13 appearing candidates, 12 candidates were declared 'passed' and one as 'failed'. The name of the applicants Shri Vipin Kumar was at serial no. 8 and Shri Sikander Prasad Yadav at serial no.12. Against the 03 un-reserved vacancies candidate at merit serial no.1, 02 and 03 were promoted/ appointed, whereas against the 02 SC vacancies candidate at merit serial no. 04 and 10 were promoted/ appointed and the ST vacancy remained unfilled due to non-availability of any candidate.

4. The applicant case is that the respondents did not count all anticipated vacancies upto 31.03.2011 but only vacancies available upto 19.04.2010. In this regard, it is stated that 14 Chargemen were promoted to the post of Assistant Foreman vide order dated 15.06.2010, as such 14 posts were anticipated vacancies before 31.03.2011.

5. The applicants further argue that they have received a reply to RTI from the respondents that against the sanctioned strength of 130 Chargeman, the existing strength was only 81 and, therefore, 49

vacancies were still to be filled up (Annexure A/8). According to the reply dated 28.01.2012, out of 49, 12 vacancies had to go to LDCE candidates as after restructuring the vacancies had to be filled up 50% by promotion, 25 % by LDCE and 25 % by direct recruitment.

6. It is also stated that apart from the 14 vacancies arising out of Chargeman getting promoted as Assistant Foreman, other vacancies were also available before 31.03.2011 arising out of superannuation etc.

7. It is thus argued that had the respondents correctly worked out the vacancies, the applicants having come in the merit list would have got promoted.

8. It is further stated that in OA No.186/2012 an interim order had been passed by the Cuttack Bench dated 7.03.2012 and 23.05.2012 by which the Tribunal had ordered that the result of the said examination will not be declared without the leave of this Tribunal. But the respondents have wrongfully rejected the claim of the applicant and has initiated another selection vide letter dated 16.8.2011 to fill up 13 vacancies in the post of Chargeman taking into consideration the fact that 12 of these vacancies had arisen prior to 31.03.2011 and had been carried forward. The applicant has thus filed this OA seeking the following reliefs:-

- “(i) That this Hon’ble Tribunal may graciously be pleased to allow the OA and quash the impugned order.
- (ii) That this Hon’ble Tribunal may further be pleased to direct the Respondents to promote the applicants to the post of Chargeman (Mechanical) from the list of qualified candidates which has been issued on 14.10.2010 with all consequential benefits.
- (iii) Any other or further order/s which this Hon’ble Tribunal may deem fit and proper may also be passed.

(iv) Cost of proceedings may be awarded to the applicants.”

9. The respondents in their reply state that as per Establishment letter dated 1.02.2012 appointments to LDCE are to be made only to the extent of vacancies advertised. If any unforeseen vacancies occurred subsequently due to death/VR/Revision of sanctioned strength etc. the same is to be carried forward and clubbed up with the vacancies of next year. Further, appointment can only be made from the panel drawn up for the purpose and the panel can be prepared only to the extent of vacancies advertised.

10. It is stated that the respondents evaluated the vacancies available upto 31.03.2011 and notified this vide letter dated 19.04.2010 which we have already discussed above, namely, 06 vacancies were notified and based on that the LDC Exam-2010 was held and has explained above, the respondents strictly went by the merit list in filling up of these 6 vacancies notified. After the vacancies were notified on 24.02.2010, the vacancies arising out of promotion of Chargeman to Assistant Foreman occurred on 15.06.2010 i.e. after 19.04.2010.

11. Vide letter dated 24.03.2011 the sanctioned strength of Chargeman was increased to 130 and thereafter the vacancies notified for LDCE 2011. 12 vacancies arose at this stage but which was after selection of the candidates against the notified 6 vacancies was over.

12. Heard the learned counsel and perused the records.

13. It is clear from the facts that number of vacancies available on 19.04.2010 were intimated to the authority holding the LDCE-2010. The number of vacancies at that stage was 6. On a subsequent date,

14 vacancies arose as a result of promotion of Chargemen as Assistant Foreman and some vacancies arose because of restructuring. Obviously, these could not have been taken into account on 19.04.2010. Therefore the respondents cannot be faulted for the procedure adopted by them. As regards the interim order passed in OA 186/2012, they have no bearing in this case as they are interim orders.

14. In view of the facts and circumstances narrated above, the OA lacks merit and is, therefore, dismissed. No costs.

**(Dr.Braham Avtar Agrawal )**  
**Member (J)**

**( P.K.Basu )**  
**Member (A)**

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