

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A.NO.2679 OF 2015

New Delhi, this the 18th day of May, 2017

CORAM:

HON^ØBLE SHRI RAJ VIR SHARMA, JUDICIAL MEMBER

AND

HON^ØBLE MRS. PRAVEEN MAHAJAN, ADMINISTRATIVE MEMBER

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Vikas Singh Kunwar,
Aged 29 years,
s/o Shri R.P.Singh Kunwar,
R/o H.No.224-B, DG-2,
Vikas Puri,
New Delhi

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Applicant

(By Advocate: Mrs.Somyashree Mishra)

Vs.

Secretary,
New Delhi Municipal Council,
Palika Kendra,
New Delhi

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Respondent

(By Advocate:Mrs.S.Chatterjee)

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ORDER

Per Raj Vir Sharma, Memmber(J):

The applicant has filed this Original Application under Section 19 of the Administrative Tribunals Act, 1985, praying for the following reliefs:

- õ i) Direct the respondent to hold interview and complete the selection process within 3 months.

- ii) Direct the respondent to appoint the applicant to the post of Wireless Attendant for which he has already applied.
- iii) or any other order or directions as deemed fit in the facts and circumstances of the case be passed.ö

2. It is the case of the applicant that he is a member of SC community. He has possessed the qualifications of Diploma in Electronic & Communication Engineering, and B.Sc.(IT). He has also acquired experience as an IT Administrator. On the basis of a requisition being submitted by the respondent for sponsoring names of suitable candidates for selection and recruitment against 35 (GC-18, SC-5, ST-2, OBC-9, PH-1) vacancies in the post of Wireless Attendant, the concerned Employment Exchange sponsored his name and names of other candidates to the respondent. The respondent, vide its letter dated 20.8.2010, required him to submit application in the proforma along with necessary documents in respect of academic and technical qualifications by 3.9.2010. With reference to his application, the respondent, vide its letter dated 10.9.2010, further required him to send attested photocopy of mark-sheets of 10th standard, 12th standard, and graduation within one week of issue of the said letter for consideration of his candidature. As the respondent did not hold any selection test, he made applications on 4.8.2011, 29.7.2013 and 6.5.2014 seeking different information under the Right to Information Act, 2005. With reference to his application dated 4.8.2011, the respondent, vide its letter dated 17.8.2011, informed the applicant that 507 candidates had deposited their mark-sheets, and that the case regarding filling up the 35

vacant post of Wireless Attendant is under process. With reference to his application dated 29.7.2013, the respondent, vide its letter dated 29.8.2013, informed the applicant that "Due to administrative reasons, the posts of Wireless Attendant have not been filled up till date". With reference to his application dated 6.5.2014, the respondent, vide its letter dated 2.6.2015, informed the applicant that "Due to Administrative reason, no action has been taken regarding the post of Wireless Attendants". Hence, the applicant filed the present O.A. on 23.7.2015 seeking the reliefs, as aforesaid.

3. In the above context, it has been contended by the applicant that as a citizen of India, he has a right under the Constitution of India to be considered in the selection process for employment as Wireless Attendant under the respondent. The respondent has adopted dilly-dallying tactics in the matter of holding of selection without any reason whatsoever. As a consequence, he is not being considered for employment, for which he had made the application in the year 2010. He is also becoming age barred for other employment. Thus, his right to employment has been infringed.

4. Resisting the OA, the respondent has filed a counter reply. It has been stated by the respondent that on the eve of the Commonwealth Games-2010, a proposal for creation of 35 posts of Wireless Attendant was initiated and draft Recruitment Rules were prepared. With the approval of the Chairman, a Sub Committee was constituted to consider and examine the requirement of creation of posts of Wireless Attendants on the same lines as in the case of creation of posts of Assistant Fire Guards. On the basis of

recommendation of the Sub Committee, the requisition was placed with the Employment Exchange for sponsoring names of suitable candidates for selection and recruitment against 35 posts of Wireless Attendants. A meeting was held under the chairmanship of the then CVO on 17.10.2012 to consider the requirement of filling up the posts of Wireless Attendants. It was decided that there was no need to fill up the said posts as the urgency already expired and as no action was taken to fill up these posts during the Common Wealth Games, 2010. Therefore, the respondent did not proceed with the process of selection.

5. Refuting the stand taken by the respondent, the applicant has filed a rejoinder reply wherein he has more or less reiterated the same averments and contentions as in his O.A.

6. We have heard Mrs.Somyashree Mishra, the learned counsel appearing for the applicant, and Mrs.S.Chatterjee, the learned counsel appearing for the respondent.

7. Admittedly, 35 posts of Wireless Attendant were sought to be created by the respondent for the Common Wealth Games, 2010, and the respondent took steps for filling up the said posts. That is how, the applicant and several other candidates, who were sponsored by the concerned Employment Exchange, submitted their applications in the prescribed proforma along with testimonials. After the Common Wealth Games, 2010, were over, there was no need for filling up the said posts. Accordingly, on 17.10.2012 the respondent decided not to proceed further with the selection

process for filling up 35 posts of Wireless Attendant. It is, thus, found that the decision not to fill up those posts was taken by the respondent bona fide for appropriate reasons. On the facts and in the circumstances of the case, the applicant cannot be said to have acquired an indefeasible right to be considered for selection and appointment. A candidate on making an application for a post pursuant to an advertisement does not acquire any vested right of selection or of appointment to the post in question. Thus, the mere fact that the applicant made the application for selection would not entitle him to seek a direction from the Tribunal to the respondent to hold the selection process and appoint him to the post for which he had applied.

8. In the light of our above discussions, we have no hesitation in holding that the O.A. is devoid of merit and liable to be dismissed. Accordingly, the O.A. is dismissed. No costs.

(PRAVEEN MAHAJAN)
ADMINISTRATIVE MEMBER

(RAJ VIR SHARMA)
JUDICIAL MEMBER

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