

**Central Administrative Tribunal
Principal Bench, New Delhi.**

**OA-3363/2016
MA-2956/2016**

Reserved on : 10.02.2017.

Pronounced on : 14.02.2017.

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

1. Vikas, Aged-23 years,
Appointment,
S/o Sh. Jagmehender,
R/o Main Jhajhar Road,
Queen Enclave, Near Jeet
Hotel, Near BSES Power House,
Bhadugarh (Haryana).
2. Ankit Dabas, aged 21 years,
S/o Sh. Udaybir,
R/o Vill. & PO M.P. Majra,
Tesh. Beri, Distt. Jhajjar(Har).
3. Deepak Kumar, aged 21 years,
S/o Sh. Mahavir Singh,
R/o Vill. & PO Sehri, Teshl Kharkhoda,
Distt. Sonipat (Har).
4. Sammi Kumar, aged 23 years,
S/o Sh. Krishan Dass,
R/o H.No. 73, C-2, Nangloi Vihar Extn.,
Near Shiv Mandir, Baprola, Najafgarh,
New Delhi.
5. Munium Kumar, aged 19 years
S/o Sh. Umesh Prasad,
R/o Vill. Saypur, Post Bhanakpura,
Tesh. Mahwa, Distt. Dausa (Rajasthan). Applicants

(through Sh. Yogesh Sharma, Advocate)

Versus

1. Union of India through the Secretary,
Ministry of Defence, Govt. of India,
South Block, New Delhi.

2. The Commandant,
Army Hospital(R&R),
Delhi Cantt.-10.

.... Respondents

(through Ms. Harvinder Oberoi, Advocate)

O R D E R

Mr. Shekhar Agarwal, Member (A)

According to the applicants the respondents vide advertisements dated 16.05.2015, 25.05.2015 and 27.06.2015 invited applications for filling up various posts including that of Fireman in Army Hospital (R&R), Delhi Cantt. The applicants fulfilled all the eligibility conditions and applied for the post of Fireman. They were called for documents verification on 15th & 16th February, 2016 and subsequently for physical test on 19th to 24th February, 2016. After qualifying these stages they were called for written test, which was conducted on 06.05.2016. 16 posts of Fireman were available. According to the applicants, some of the candidates, who had not qualified in the physical examination complained to the concerned authorities regarding certain irregularities being committed in the selection process. The respondents then cancelled the earlier selection without assigning any reason and issued fresh advertisement for the same posts on 13.09.2016. This action of the

respondents has been challenged in the present O.A. in which the following relief has been sought:-

“(i) That the Hon'ble Tribunal may graciously be pleased to pass an order of quashing the impugned order dated 13.9.2016 (A/1), declaring to the effect that the whole action of the respondents cancelling the earlier selection and advertisement is totally illegal, arbitrary and against the principle of natural justice and consequently, pass an order directing the respondents to declare the final panel of the selected candidates as per the earlier advertisement with all the consequential benefits.

(ii) Alternative relief in case of not granting the above prayed relief (i), That the Hon'ble Tribunal may graciously be pleased to pass an order directing the respondents to conduct fresh written test only from those candidates who had applied on the basis of earlier advertisement and who had qualified the physical examination as per earlier advertisement.

(iii) Any other relief which the Hon'ble Tribunal deem fit and proper may also be granted to the applicant along with the costs of litigation.”

2. The applicants have relied on the judgment of the Apex Court in the case of **UOI Vs. Rajesh P.U. Puthuvalnikathu**, (2003) 7 SCC 285 to say that even if there were some infirmities in the selection process the same should not have been cancelled. The applicants have also relied on the judgment of a Co-ordinate Bench of this Tribunal in OA-1209/2012 (**Raj Kumar & Ors. Vs. UOI & Ors.**) dated 16.01.2014 in which noting that the respondents had cancelled the examination on flimsy grounds, this Tribunal had quashed the order by which the selection process was scrapped.

3. In their reply, the respondents have not denied the averments of the applicants regarding carrying out the selection process for the post of Fireman upto the stage of written test. They have submitted that the Board proceedings regarding the same were submitted to HQ Western Command (Medical Branch) on 15.04.2016. HQ Western Command (Medical Branch) had written the same on 01.08.2016 pointing out various errors in the selection process. Therefore, to be fair to all the candidates, the earlier selection was abandoned and fresh process was initiated.

4. We have heard both sides and have perused the material placed on record. To ascertain the exact reason for cancellation of the selection for the post of Fireman, we have perused the Annexure-I attached to the counter-affidavit of the respondents. This is a letter dated 01.08.2016 written by HQ Western Command (Medical Branch) to the Army Hospital (R&R), Delhi Cantt-10. While other reasons have been given for cancellation of selection process for the post of Store Keeper-cum-Clerk, Ward Sahayika, Mali, Washerman, Chowkidar and Safaiwali etc., the reason for cancellation for the post of Fireman is contained in Para-2(b) of the letter and reads as follows:-

"Scheme of examination has not been specified in the advertisement in National Dailies for Firemen and Fire Engine Driver categories."

4.1 Arguing for respondents, learned counsel Ms. Harvinder Oberoi drew our attention to Annexure-A/2 of the OA filed by the applicants themselves. She stated that this was the Employment Notice No.02/2015 issued for inviting applications for the post of Firemen. A mere reading of the same would reveal that the Scheme of examination has not been notified in the same. She stated that this was the error noticed by the HQ Western Command and was the reason for cancellation of the selection process.

5. After hearing both sides, we are of the opinion that there is no infirmity in the action of the respondents. The Scheme of examination needs to be notified to all the candidates in advance to maintain transparency and the same cannot be changed mid way through the process of selection. By not notifying the same, the respondents had committed a grave mistake, which vitiated the entire selection process. Therefore, they were right in abandoning the earlier selection and re-advertising the post.

5.1 In any case, as far as applicants are concerned, they had merely passed initial stages of the examination process, namely, documents verification and physical test. Even the result of the written examination had not been declared when the selection process was abandoned. The applicants had not acquired any indefeasible right to be appointed. In this regard, we place reliance

on the judgment of Apex Court in the case of **Shankarsan Dash Vs. UOI**, (1991) 3 SCC 47.

6. We, therefore, do not find any merit in this O.A. and dismiss the same. No costs.

(Raj Vir Sharma)
Member (J)

(Shekhar Agarwal)
Member (A)

/Vinita/