

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI**

OA NO.4289/2013

Order reserved on 29.01.2018
Order pronounced on 12.02.2018

**HON'BLE MR. RAJ VIR SHARMA, MEMBER (J)
HON'BLE MS. PRAVEEN MAHAJAN, MEMBER (A)**

Rahul Ahlawat,
S/o Sh. Kuldeep Singh,
R/o 203, Vill: Holambi Khurd,
Post: Holambi Kalan,
Delhi-110082.Applicant

(By Advocate: Mr. A.K. Trivedi)

VERSUS

1. Union of India
through its Secretary,
Ministry of Defence,
South Block,
New Delhi-110011.
2. The Joint Secretary (Trg & CAO),
GOI, Ministry of Defence,
Room No.170, E-Block,
Dalhousie Road,
New Delhi-11.Respondents

(By Advocate: Dr. Ch. Shamsuddin Khan)

:ORDER:

MS. PRAVEEN MAHAJAN, MEMBER (A):

The present OA has been filed against the impugned order dated 15.10.2013 by which offer of appointment to the applicant, for the post of Multi-Tasking Staff (MTS) has been kept in abeyance by the respondents in view of the criminal case pending against him. Vide the said communication, he

has been informed that the offer will only be issued in the event of his acquittal by the Court of Law.

2. Briefly stated, the facts of the case are that the applicant applied for the post of MTS through Staff Selection Commission (SSC). On qualifying the same, he was nominated in the Armed Forces Headquarters/Inter Services Organization in the pay scale of Pay Band-I (5200-20200) with Grade Pay of Rs.1800/- to the post of MTS, vide order dated 19.06.2013 (Annexure A/2).

3. The applicant submits that though he was not involved in any case but FIR No.232 dated 16.09.2012 was registered u/s 420/120B IPC wherein the applicant was not named but was later on arrested and sent to judicial custody. Presently, the applicant is released on bail and (reportedly) no charge-sheet has been filed against him in the competent Court of Law. The applicant further states that another (similar) FIR No.233 dated 16.09.2012 was registered against one Shri Manish Khatri and Shri Ankit Khatri u/s 420/120B IPC. The two accused therein remained in judicial custody and were later released on bail. The applicant avers, that all three of them were selected by the SSC and issued offers of appointment. While Shri Ankit Khatri was issued a letter offer of appointment to the post of LDC in Rastrapati Bhawan, South Block, New Delhi, Shri Manish

Khatri has been appointed as Auditor in the office of the Director General of Audit (Central Expenditure), Indraprastha Estate, New Delhi.

4. The applicant gave his acceptance for the post of MTS and submitted his attestation form for police verification in which he did not conceal the fact of pendency of criminal case against him. He was not issued the offer of appointment whereas the above named personnel i.e. namely Shri Manish Khatri and Shri Ankit Khatri received their appointment offers. The applicant submitted a representation dated 08.10.2013 to the respondents and was informed vide their order dated 15.10.2013 that the offer of appointment in his case has been kept in abeyance because of the pending criminal case against him.

5. The applicant has relied upon the judgment of the Hon'ble Apex Court in the case of **Sh. Narayan Yashwant Gore Vs. UOI**, SLJ 1995(3) SC 188 in which it has been held that similarly situated persons should be given similar treatment, which has not been meted out to him.

6. He states that the order dated 15.10.2013 is discriminatory in nature and has sought the following reliefs:-

- "(a) Quash and set aside the impugned order dated 15.10.2013 declaring as illegal, unjust, arbitrary and discriminatory.

- (b) Direct the respondents to consider issue the Offer of Appointment to the applicant to the post of Multi Tasking Staff (MTS) as he has been issued to similarly situated persons and the applicant may be entitled for all consequential benefits accruing therefrom.
- (c) Any other relief which this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the case.
- (d) Award cost."

7. The respondents state that on receiving the dossier of the applicant, pre-recruitment formalities were initiated by them. During verification, it was revealed that the applicant was involved in the pending criminal case in FIR No.232/2012, which was also disclosed by the applicant while filling up the attestation forms. Accordingly, the offer of appointment of the applicant has been kept in abeyance and will be considered only after conclusion of the case.

8. The respondents contend that as per the notice dated 04.12.2010 of SSC by which the recruitment to the post of Multi-tasking (Non-Technical) Staff in different States and Union Territories 2011 was held, it has been categorically mentioned that the candidature is provisional and subject to fulfillment of various conditions by the candidates. There is nothing in the instructions stating that if a criminal case is pending against a candidate his nomination cannot be cancelled. It is the responsibility of the Appointing Authority to satisfy itself about the suitability of the candidate before making the appointment by verifying his character

antecedents, which is exactly what the respondents have done. In his rejoinder, the applicant has again reiterated the submissions made in the OA.

9. We have gone through the facts of the case, perused the relevant records and considered the rival submissions made by both sides.

10. We are not convinced by the arguments put forth by the applicant that merely because (purportedly) some other persons against whom criminal case/FIR is pending, have been issued offers of appointment, it becomes the right of the applicant to be issued an offer of appointment. As a matter of fact, the respondents have been rather generous and indulgent by not cancelling and keeping the offer of appointment alive, despite the criminal case outstanding against the petitioner.

11. The respondents, being a sensitive organization in the Ministry of Defence are duty bound to follow pre-recruitment formalities before allowing any person to work with them. They are mandated to ensure that every person working with them, in a permanent or temporary capacity, is suitable (in all respects) for appointment to the post for which he is being considered for appointment.

12. The respondents have rightly responded that the circumstances under which the said Shri Manish Khatri and Shri Ankit Khatri were appointed, are not known to them. In all fairness, they cannot be held accountable for appointment of persons, in different departments. The two persons are neither a party in the OA nor the circumstances, under which they were charged of FIR lodged against them, is available on record.

13. We have considered the citations relied upon by the applicant i.e. **Brijendra Singh Meena Vs. State of Rajasthan and Ors.** 1997 (7) SLR (Civil Writ Petition No.883 of 1997) and **Hitesh Mann Vs. Principal Chief Controller of Accounts** (OA No.1506/2014). The ratio of the same cannot be made applicable to the present case, the facts of the two cases being totally distinct from those of the present OA.

14. In view of the these facts, the offer of appointment kept in abeyance by the respondents, on account of pendency of criminal case against the applicant cannot be said to be violative of Articles 14 and 16 of the Constitution of India. There is a laid down procedure for pre-recruitment formalities which every Ministry under Govt. of India is bound to follow. Detailed instructions on the subject are issued by the Department of Personnel from time to time,

which have to be adhered to – to ensure safety and smooth functioning of the department.

15. In view of the facts and circumstances of the case, we find no reason to interfere in the decision of the respondents in keeping the offer of appointment to the applicant in abeyance in view of the pending criminal case against him.

16. The OA is accordingly dismissed being devoid of merits.
No costs.

(Praveen Mahajan)
Member (A)

(Raj Vir Sharma)
Member (J)

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