

CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

OA/021/207/2018
Date of Order : 11-06-2018

Between :

Zameer Ahmed Khan S/o Ghulam Ahman Khan,
Aged about 55 years, Occ: Pharmacist, Grade-II,
Primary Health Centre, Vemanapally,
Mancherial District, Telangana State.Applicant

AND

1. Union of India rep by Secretary,
Ministry of Minority Affairs,
Deendayal Antyodaya Bhawan,
CGO Complex, Lodhi Road, New Delhi-110003.
2. The Under Secretary (Haj-II),
Ministry of Minority Affairs (Haj Division),
3rd Floor, ISIL V.K.Krishna Menon Bhawan,
9 Bhagwan Das Road, New Delhi-110001.
3. Syed Mohammed Quaiser S/o Not known,
Aged about 48 years,
Occ: Pharmacist Grade-II,
Department of Railways, Patna. ...Respondents

Counsel for the Applicant: Mr. B. Pavan Kumar

Counsel for the Respondents : Mrs. K. Rajitha, Sr.CGSC

CORAM :

THE HON'BLE MR.JUSTICE R.KANTHA RAO, JUDICIAL MEMBER
THE HON'BLE MRS.MINNIE MATHEW,ADMINISTRATIVE MEMBER

(Oral order per Hon'ble Mr.Justice R.Kantha Rao, Judicial Member)

Heard Dr A Raghu Kumar, learned counsel appearing for the applicant
and Mrs. K. Rajitha, learned Sr Central Govt., Standing Counsel for the
Respondents.

2. The Original Application is filed challenging the letter dated 16.02.2018 whereby and whereunder the 3rd Respondent was selected instead of the applicant for the post of Assistant (Welfare) in Consulate General of India, Jeddah on deputation basis for the period of two years on the ground that the same is malafide, illegal, arbitrary and violative of Article 14 and 16 of the Constitution of India and the Rules regarding selection.

3. The brief facts of the case are that the 2nd Respondent issued OM F.No.04/14/2017-Haj, dated 13.11.2017 inviting applications from regular permanent experienced male Muslim Compounder / Pharmacist of Central Government Hospitals, State Government Hospitals or Autonomous Hospitals for the post of Assistant (Welfare) in the Consulate General of India, Jeddah on deputation basis for a period of two years.

4. The 3rd Respondent and several others applied for the post. The 3rd Respondent and the applicant were called for the interview and the Committee which held the interview, selected the 3rd Respondent. Aggrieved by the selection of the 3rd Respondent, the present OA is filed by the applicant seeking the aforementioned relief.

5. The grounds on which the selection is sought to be set aside are that, apart from holding the Diploma in Pharmacy, the applicant is also Graduate (BA Public Administration) in Urdu medium and Arabic as a second language whereas the 3rd Respondents did not possess any degree or diploma in

Arabic language. Secondly, the applicant joined as Pharmacist on 19.09.1986 whereas the 3rd Respondent joined as Pharmacist on 17.08.1988 and thus the applicant is senior to the 3rd Respondent. Thirdly, the 3rd Respondent was selected on deputation basis for the same post for two times i.e. in the years 2012 and 2017 whereas the applicant though applied four times, was not selected even once. Fourthly, that it is the last chance for the applicant to be selected for the post of Assistant (Welfare) whereas the 3rd Respondent still has four more chances to apply for the said post. Lastly the applicant contends that, he has faced interviews for six times and has got vast experience and whereas the applicant appeared for the interview for the first time. Thus, it is the version of the applicant that apart from satisfying the minimum eligibility criteria, the applicant is the most deserving candidate than the 3rd Respondents and the Committee overlooked the merit of the applicant and selected the 3rd Respondent.

6. The Respondents apart from raising the issue of jurisdiction to entertain the OA, contended in their reply statement *inter alia* as follows :

The selection of the 3rd Respondent was on the basis of comparative examination of the educational qualifications, experience, grading in the APARs/ACRs, personal interaction in the interview etc.,. The applicant earlier in the years 2010 and 2012 also challenged the selection process by filing the OAs but the Tribunal refused to grant any relief to him.

7. Thus, according to the Respondents, the selection is fair and

transparent which was followed by interview conducted by the panel headed by Mr. Nijamuddin, Deputy Secretary (Haj & Umrah), Ministry of Minority Affairs including representation of Doctor from Ministry of Health & Family Welfare, Govt., of India as member of interview panel. The Interview Panel recommended the name of the 3rd Respondent from the 28 candidates on 16.01.2018, as the most suitable candidate for the post of Assistant (Welfare), CGI, Jeddah (KSA). Therefore the Respondents vehemently opposed to grant any relief in the OA asserting that the selection is fair and based on the interview and verification of the documents relating to qualifications and experience of the candidates appeared for the interview.

8. With regard to the jurisdiction of the Tribunal, the contention of the Respondents seems to be that the Office Memorandum issued by the Respondent No.2 clearly mentions that any dispute pertaining to this matter will be submitted strictly under the jurisdiction of the courts located at Union Territory of Delhi and no court has authority to entertain such application. Having gone through the said condition mentioned in the Office Memorandum, we are of the view that, Section 19 of the Administrative Tribunals Act and Rule-6 of the CAT (P) Rules enable the applicant to approach the Bench within whose jurisdiction (i) the applicant is posted for the time being, or (ii) the cause of action, wholly or in part, has arisen. In the instant case, the applicant is working as Pharmacist Gr.II in Primary Health Centre, Vemanapally, Mancherial District, Telangana State. Since the applicant made an application seeking deputation to the post in question

from the office which is situated in the State of Telangana, where part of the cause of action arose, this Tribunal has the jurisdiction conferred by the Statute which cannot be taken away by the O.M issued by the 2nd Respondent. Therefore we are of the considered view that the dispute in the present OA is well within the jurisdiction of the Tribunal.

9. As regards merits of the OA as put forth by the applicant, he states that he has a degree in Arabic language which is desirable to discharge the duties of the deputation post and also he claims to be senior to the applicant. In any event, there is no denial to the fact that the 3rd Respondent also possesses the requisite qualifications as per the notification. The selection was based on the interview where there had been an interaction with the Selection Committee. Considering the educational qualifications, experience and also the interaction with the interview board, the Respondents selected the 3rd Respondent for the said post on deputation basis for a period of two years. Subsequent to the filing of the OA, the 3rd Respondent also joined duty. Since it is not the case of the applicant that the 3rd Respondent does not possess the requisite qualifications and his selection is without merit, we are of the view that it is for the Selection Committee to make an assessment regarding the selection of candidate and it is not possible for us to substitute our view to that of the Selection Committee. Therefore we hold that the applicant is not entitled for the relief prayed for in the OA.

10. Accordingly the Original Application is dismissed as devoid of merit.

No order as to costs.

(MINNIE MATHEW)
ADMINISTRATIVE MEMBER

(R.KANTHA RAO)
JUDICIAL MEMBER

Dated : 11th June, 2018.
Dictated in Open Court.

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