



**CENTRAL ADMINISTRATIVE TRIBUNAL
KOLKATA BENCH**

No. O.A. 350/00715/2012
M.A. 350/00517/2012

Date of order : 25.07.2018

Present : Hon'ble Ms. Bidisha Banerjee, Judicial Member
Hon'ble Dr. Nandita Chatterjee, Administrative Member

Sumitra Karmakar,
Daughter of Nimai Ch. Karmakar,
Maya Pally,
P.O. – Ichapur, Nawab Ganj,
Dist. – North 24 Parganas,
Age – 30 years.

.. Applicant

- V E R S U S -

1. Union of India,
Through the Secretary,
Ministry of Defence,
New Delhi – 1.
2. The General Manager,
Indian Ordnance Factories,
Rifle Factory,
Ishapore,
West Bengal,
Pin – 743 144.

.. Respondents

For the Applicant : Mr. A. Charkabarty, Counsel

For the Respondents : Ms. R. Basu, Counsel
Mr. B.B. Chatterjee, Counsel

O R D E R (Oral)

Per Dr. Nandita Chatterjee, Administrative Member:

Ld. Counsel for the applicant and respondents are present.

2. The instant Original Application has been filed under Section 19 of the Administrative Tribunal Act, 1985 seeking the following relief:

“a) An order do issue directing the respondents to consider the case of the applicant for inclusion of the name in the final panel for the vacancies notified in Employment News advertisement dated 12-18 November, 2011.”

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3. Heard Ld. both Ld. Counsel, examined pleadings and documents on record.

4. The case of the applicant in brief, is that the applicant had after completion of training, qualified in the prescribed trade test in the trade of Electronics and obtained a trade certificate issued by the National Council for Vocational Training (NCVT). Applications were invited for appointment to the post of Examiner (Engineering) semi speed post and of the total 16 posts to be filled up, 3 were reserved for OBC. It was notified that all eligible candidates were to be called for objective type written test and on the basis of merit as determined by written marks, candidates were to be called for a trade test (practical test) of 100 marks in the ratio 1:3 on the basis of number of vacancies in the respective trade and the final merit was to be decided on the basis of combined marks in the written and trade test. It had also been stated in the said notification that ex-trade apprentices of Ordnance Factories would be given preference over ex-trade apprentices of other Organizations as they are conversant in jobs in Ordnance factories and have been trained by Ordnance factories incurring expenditure on such training.

A select list for practical test was published on 25.4.2012 and 10.5.2012 respectively in which 48 and 52 candidates were called to appear in the practical test respectively. Although in the first list no cut off marks was given, such cut off marks were introduced in the second list.

Hence, as there was 16 vacancies and as per the notification, candidates were to be called in the ratio of 1:3 to the number of vacancies for the trade test, 48 candidates were to be called for written test whereas in the second list 52 candidates were called, which was contrary to the notification.

Thereafter the respondents had finally published a list of selected candidates but the applicant was not enlisted therein and as the notification had stated that ex-trade apprentices of Ordnance Factories would be given preference, no preference had been given to the applicant at the time of the

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practical selection and hence, being aggrieved the applicant had filed the instant O.A.

5. Per contra, the respondents' arguments were:-

That, in order to fill up 100 (one hundred) Group 'C' posts in different Trades in the Semi-Skilled Grade in the PB-1 Rs. 5200-20200 and Grade Pay Rs. 1800/- in the Rifle Factory, Ishapore, a defence production unit under Ministry of Defence (Department of Defence Production) an advertisement was published in the Employment News dated 12-18 November, 2011. Out of 100 posts, 16 numbers of vacancies were earmarked in the trade of Examiner (Engg.). The reservation break up of 16 numbers of semi-skilled posts in the trade of Examiner (Engg.) was notified as UR-11, SC-02, ST-Nil and OBC-03. Out of total 100 (one hundred) posts notified in the above said advertisement, 3% posts were earmarked as reserved for physically handicapped persons, 5% posts for Meritorious Sport persons and 10% posts for Ex-Serviceman.

That, as regards selection process, it was mentioned in the advertisement that all eligible candidates would be called for an objective type written test. On the basis of merit in accordance with marks in the written test, candidates were to be called for trade test (practical test) of 100 marks in the ratio of 1:3 to the number of vacancies in the respective trade. Final merit was to be decided on the basis of combined marks in the written and trade test (practical test). In the selection process other things being equal i.e. marks being equal, trained Ex-Trade Apprentices of RFI and sister ordnance factories were to be given preference in the order in which they were stated. In between the trained Ex-Trade Apprentice of RFI, preference were to be given to those who were senior i.e. if two or more Ex-Trade Apprentices secured same marks then preference were to be given on the basis of seniority. Seniority of ex-trade apprentices of RFI were to be decided on the basis of OFB's letter No. 13/08/03-AHRD dated 15/17.12.2003. Similarly, in between trained apprentices of Ordnance Factories preference were to be given to those who were senior. In all other case of tie, the

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selection was to be decided on the basis of marks obtained in the written examination only.

That, it was also indicated in the advertisement that Ex-Trade Apprentices of Ordnance Factories were to be given preference over ex trade apprentices of other organizations as they were conversant with jobs in Ordnance Factories and had been trained by Ordnance Factories incurring expenditure on such training.

That, the applicant, an OBC by caste, was an ex-Trade Apprentice of RFI who had successfully completed the course of apprenticeship training under Apprentices Act, 1961 at RFI in the trade of Elec./Mech. in 2010 and had applied for the post of Examiner (Engineering) in response to the above cited advertisement.

That, the applicant having qualified in the written test held on 25.3.2012 was called for the practical test (trade test) which was conducted on 05.06.2012 for assessment of her suitability in the Semi Skilled grade in the trade of Examiner (Engg.). As per results drawn up on the basis of combined marks in the written and trade test (practical test), the last candidate under OBC category as per select list had obtained 92 marks. The applicant, however, had scored only 58 marks in total (written test + trade test). The name of the applicant hence did not figure in the select list under OBC category for having obtained marks which was far less than the last OBC candidate selected against 03 numbers of vacancies meant for OBC category.

6. The crux of the issue involved in this original application has been answered by the respondents, who, in their reply have stated that as per the results drawn up on the basis of combined marks in the written and trade test, the last candidate under OBC category as per merit in the OBC category had obtained a total of 92 marks. The applicant, who was also in the OBC category obtained only 58 marks as a result of the combined marks obtained in the written test and trade test and as the marks were far less than that of the last OBC

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candidate selected against three number of vacancies meant for OBC category, the applicant had no scope of selection.

Nowhere, the applicant has disputed her marks or had established that she had obtained more marks than the last candidate under OBC category as per the OBC select list and consequently, we find the applicant has failed to qualify on merit which was the basis of selection as contained in notification dated 12-18th November, 2011 (Annexure A-3 to the O.A.). The respondents have also clarified that in the selection process, other things being equal, that is, marks being equal, trained Ex-Trade Apprentices of RFI and sister Ordnance factories were to be given preference and that between trained Ex-Trade Apprentices of RFI preference were to be given to those, who were senior and such seniority was to be decided on the basis of Ordnance Factories as per letter dated 15.3.2003 and in all other case of tie selection was to be decided on the basis of marks obtained in the written examination.

It is not the case of the applicant that preference were not given to her vis-à-vis other trained Ex-Trade Apprentices as because she failed to qualify at the very outset i.e. on the basis of combined marks in the written and trade test as per the merit list with reference to OBC candidates.

9. Accordingly, as held in *Union of India v. Ashutosh Kumar Srivastava*, (2002) 1 SCC 188 that;

"The jurisdiction of CAT is confined to monitoring whether the concerned rules relating to the interview or viva voce have been complied with, it cannot sit in judgment on merits relating to the persons interviewed and allot marks of its own." we hereby are of the considered view that the rules as laid down in the recruitment notification have been adhered to by the respondent authorities. The said Rules have also not been called in question. The respondents' clarification on adherence to Rules are adequate.

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11. Accordingly, we deem it fit to dismiss the case on merit and dispose of the O.A. accordingly. There will be no order on costs.

(Dr. Nandita Chatterjee)
Administrative Member

(Bidisha Banerjee)
Judicial Member

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