

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

No. OA 351/1521/2017

Date of order : 6.3.2018

Present: Hon'ble Ms. Manjula Das, Judicial Member
Hon'ble Dr. Nandita Chatterjee, Administrative Member

KAMAL MANDAL

S/o Shri Loknath Mandal,
Aged about 27 years, Unemployed,
R/o C-92 Fisheries Colony,
Ward No. 7, Prem Nagar,
PO – Haddo,
Port Blair – 744102,
South Andaman.

...APPLICANT.

VERSUS

1. Union of India, through
The Secretary,
Ministry of Home Affairs,
Govt. of India,
New Delhi – 110001.
2. The Lt. Governor,
Andaman & Nicobar Islands,
Raj Niwas,
Port Blair - 744101.
3. The Chief Secretary,
A&N Administration,
Port Blair – 744101.
4. The Secretary-cum-Director (Transport)
A&N Administration,
Port Blair - 744101.
5. The Assistant Director (Administration)
Directorate of Transport,
A&N Administration,
Port Blair - 744101.

...RESPONDENTS.

For the applicant : Mr.P.C.Das, counsel
Ms.T.Maity, counsel

For the respondents: Mr.S.K.Ghosh, counsel

O R D E R (ORAL)

Per Ms. Manjula Das, Judicial Member

This instant OA has been filed by the applicant under Section 19 of the
Administrative Tribunals Act, 1985 seeking the following reliefs :

- a) Pass an appropriate order directing upon the respondent authorities to give effect the offer of appointment dated 28th August, 2017 and to issue the appointment order for joining in favour of the applicant so that your applicant can join in the post against which you applicant has already submitted the acceptance letter on 29.8.2017 and 18.9.2017.
- b) To pass an appropriate order directing upon the respondent authorities to effect the order of appointment from the date when you applicant has accepted the same and submitted application for joining along with al consequential benefits.

2. Heard Mr.P.C.Das, Id. Counsel assisted by Ms.T.Maity, Id. Counsel appearing on behalf of the applicant and Mr.S.K.Ghosh, Id. Counsel appearing on behalf of the respondent authorities.

3. Mr.Das, Id. Counsel for the applicant submits that in order to fill up 10 vacancies, the Directorate of Transport, A&N Administration issued a notice dated 21.10.2016 for recruitment to the posts of Junior Engineer – 8 posts (Gen-6 & OBC-2), Chargeman-1 post (Gen) and Transport Officer – 1 post (Gen) inviting applications from the eligible candidates who possess requisite qualification. In pursuance of the said advertisement the applicant applied for the post of Junior Engineer in the Directorate of Transport, A&N Administration, Port Blair. On 24.10.2016 the applicant participated in the process of selection where he was selected and found his place against Sl. No.3 on obtaining 78 marks (Annexure A/5). Subsequently he was offered appointment vide memorandum dated 28.8.2017 issued by Directorate of Transport to the Group 'B' (non-gazetted) post of Transport Officer in the Transport Department with some terms and conditions (Annexure A/6 to the OA). Amongst others in Sl. No. 19 it was incorporated in the offer of appointment which reads as hereunder :

“This offer of appointment shall not be treated as appointment order and the candidate shall have no claim for appointment to the post of Junior Engineer by virtue of this offer of appointment.”

The respondent No.5 requested the applicant to furnish his willingness for appointment to the Group 'B' (non-gazetted) post of Junior Engineer in the Transport Department within a period of 3 (three) days from the date of receipt of this memorandum. With due compliance the applicant submitted his

willingness to the offer of appointment to the post of Transport Officer in the Transport Department under A&N Administration on 29.8.2017.

The grievance arose as despite submitting the willingness by the applicant in pursuance of the offer of appointment dated 18.9.2017 the respondent authorities has not issued an appointment order. Hence the applicant had make a request vide his representation dated 30.10.2017 with a request to immediately issue the formal appointment order so that she can report for joining duty to the concerned post to serve the A&N Administration.

Thus the limited prayer of the applicant is for issuance of the formal appointment order which is yet to be issued.

4. We have noted that despite the offer of appointment and after making representation by the applicant, nothing has been done by the respondent authorities. Vide reply dated 6.2.2018 the respondent authorities stated that to fill up 10 years as advertised, DBRAIT conducted separate written examination for the three category of posts on 5.8.2017 and 6.8.2017 and after evaluation, the result was uploaded in the official website of A&N Administration on 15.8.2017. The same was published in the Daily Telegrams by the Directorate of Transport on 18.8.2017 & 19.8.2017. Subsequently based on the marks obtained by the candidates, separate merit lists were prepared for each category of posts and the same was uploaded in the official website. It was further stated that based on the merit lists, offer of appointment dated 28.8.2017 was given to the applicant for the post of Jr. Engineer. In response the applicant accepted the offer of appointment for the post of J. Engineer. During the above process, some of the candidates who appeared in the written examination for the post of Jr. Engineer, Chargeman and Transport Officer, have sought information under RTI Act to provide the certified copy of the answer scripts. Since the documents of written examinations were not handed over to this department till that time, their RTI applications were forwarded to the DBRAIT to provide certified copies of their answer sheets. In response, DBRAIT has forwarded all the question-cum-answer sheet with Answer Key to this Directorate. Accordingly the certified copies of answer scripts were

provided to the RTI applicants. On receipt of the answer sheets, some of the candidates have made representation along with supporting documents claiming that inspite of quoting correct answers for few questions in their answer sheets, no marks have been given to them. These representations were forwarded to DBRAIT for verifying their claims vide Directorate's letter dated 3.10.2017. Thereafter on re-evaluation of the answer sheets DBRAIT returned the answer sheets with report and a fresh mark list along with Answer Key for the posts of Junior Engineer, Chargeman and Transport Officer vide their letter dated 16.10.2017.

We have noted that after re-evaluation the applicant who was earlier at Sl. No. 3 on the merit list (Annexure A/5) by obtaining 78, on re-evaluation got 82 (Annexure R/10 to the reply) and his merit position retained at Sl.No.3 in the merit list for the post of Junior Engineer.

5. After perusal of the pleadings and materials placed before us and on meticulous exploration we come to a finding that there is no such illegality or ambiguity in the selection process as well as participation of the applicants. We have noted that despite all formalities made as narrated hereinabove the limited prayer has not been materialized by the respondent authority till date and having no other alternative the applicant had approached this Tribunal for his limited prayer.

6. Therefore we are of the view that there is no such impediment for giving the posting order in view of the willingness and acceptance in pursuance of the offer of appointment dated 18.9.2017. As such we direct the respondent authorities to issue the posting order to the applicant immediately so that he can join at the earliest.

7. The OA stands allowed. No order as to costs.

(DR. NANDITA CHATTERJEE)
ADMINISTRATIVE MEMBER

(MANJULA DAS)
JUDICIAL MEMBER

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