

**CENTRAL ADMINISTRATIVE TRIBUNAL,
MUMBAI BENCH, MUMBAI.**

O.A.No.210/00757/2016

DATED THIS TUESDAY THE 16TH DAY OF OCTOBER, 2018.

**CORAM : DR.BHAGWAN SAHAI, MEMBER (A)
SMT.RAVINDER KAUR, MEMBER (J) .**

Mukund Prabhakar Borse,
Aged 26 years,
Occupation: Unemployed
R/o.Post-Kusumba
Tal & Dist-Jalgaon
Maharahstra-425 003. .. Applicant.

(By Advocate Ms.Priyanka Mehndiratta).

Versus

1. The Union of India
through The Secretary,
Government of India,
Department of Atomic Energy,
Directorate of Construction,
Service and Estate Management,
Vikram Sarabhai Bhavan,
2nd Floor, North Wing,
Anushkatinagar,
Mumbai - 400 094.
2. The Assistant Personnel Officer,
BRIT/BARC Vashi Complex,
Sector-20, Vashi,
Navi Mumbai - 400 703. .. Respondents.

(By Advocate Shri N.K. Rajpurohit).

**Order reserved on : 08.08.2018
Order delivered on : 16.10.2018**

O R D E R

Per : Dr.Bhagwan Sahai, Member (A) .

1. In this OA, the applicant Shri Mukund Prabhakar Borse seeks to declare him as qualified and entitled for the post of Work Assistant in the

Directorate of Construction, Services and Estate Management, Department of Atomic Energy, Anushakti Nagar, Mumbai as per the advertisement no.DCSEM/01/2012 (Annex A-3 to O.A.) and for providing of cost of this application to him.

2. Facts stated in brief:-

2(a). Directorate of Construction, Services and Estate Management, Department of Atomic Energy, Mumbai issued an advertisement no.DCSEM/01/2012 inviting applications for 11 categories of posts. Category no.11 in the advertisement was of Work Assistant/A. The applicant applied for this post, appeared for a written examination held on 22.06.2014 and thereafter was interviewed on 11.11.2014. Then vide letter dated 17.04.2015 the applicant was nominated for the post of Work Assistant/A in BRIT/BARC, Vashi Complex, Sector-20, Vashi, New Mumbai-400 703 and was asked to submit ten sets of Attestation forms and five sets of Special Security Questionnaire enclosed with that letter. He was also asked to furnish attested copy of Graduation certificate (B.Com) and latest OBC (Non-Creamy layer) certificate in the prescribed format.

2(b). In the letter of 17.04.2015 it was also specifically stated that filling up of forms is only

part of the recruitment process and it does not guarantee appointment on the post of Work Assistant/A in the Unit. Appointment will be subject to availability of vacancy and Government orders in force from time to time.

2(c). In the Special Security Questionnaire sent by the respondents, question no.9 (a) and (b) sought information from him about his association as member or worker of any political or organization or participation in political activity and about any association in that manner of his relatives mentioned in Col.7. Question no.10(a) sought information about membership of any cultural or social organization which is associated with or assisted by Foreign Mission or Organization. Question 10(b) sought information about membership of any of his relatives mentioned in Col.7 having ever been a member of any cultural or social organization associated with or assisted by a foreign mission or organization. Question 10(c) asked the applicant as to whether he was or he had been a member of any club or society or any other such bodies. To all parts of Questions no.9 and 10, the applicant had replied in negative. He submitted to the respondents this information in filled in Special Security Questionnaire on 18.04.2015.

2 (d) . Thereafter he received a letter dated 22.08.2018 from the Assistant Personnel Officer of the respondents referring to his reply to question no.9(a) of the Special Security Questionnaire submitted to the effect that he was not a member or worker of any political party / organization nor he had participated in any political activities, but it had been reported to the respondents that he (the applicant) was President of 'Khandeshana Elgar', Jalgaon Taluka since February, 2014.

2 (e) . On 29.08.2015, the applicant furnished a clarification mentioning that he had already resigned from the post of President of Khandeshana Elgar, Jalgaon on 04.04.2015 i.e before submitting the Special Security Questionnaire on 18.04.2015. He also enclosed therewith a copy of his claimed resignation letter of 04.04.2015, and its acceptance on the same date. By letter dated 28.11.2015, the Assistant Personnel Officer of the Department of Atomic Energy again informed the applicant with reference to his letter of 29.08.2015 that the matter had been scrutinized in the Department wherein it had been observed that he did not disclose information about his involvement in social activities against question no.10(c) of the Special Security Questionnaire submitted by him. This

constituted suppression of factual information by the applicant thereby making him liable to be disqualified for Government service. In view of it, the applicant was informed that he stood disqualified for appointment to the post of Work Assistant/A in BRIT/BARC, Vashi Complex, Sector-20, Vashi, New Mumbai-400 703 and no further correspondence in this regard would be entertained by the respondents.

2(f). On 09.12.2015 and 16.06.2016, the applicant wrote two letters to the Assistant Personnel Officer, BRIT/BARC, Vashi Complex, Sector-20, Vashi, New Mumbai-400 703 claiming that by contents of question no.10(a), (b) and (c) in the format of Special Security Questionnaire provided by the respondents, he understood that it pertained to information about any organization associated with or assisted by foreign nations or organizations, and as he was not related with any foreign nation or organization directly or indirectly, he replied to it in the negative. He also stated that there was no ill intention to suppress any information regarding his membership of UMKES Rayat Sanstha's Khandeshana Elgar and claimed that he was not a member of UMKES Rayat Sanstha's Khandeshana Elgar party as he had tendered his resignation on

04.04.2015 which was also accepted by that party.

2 (g) . The applicant further claimed in his above letters that question 9 of the Special Security Questionnaire pertains to membership of a political party or organization by which he understood it to mean the political parties, which are only those registered with the Election Commission of India. He also mentioned that the letter of the respondents under reference be withdrawn and he would serve more honestly in future as expected.

2 (h) . In para 2 of the letter of 16.06.2016, the applicant further stated that before submitting the filled in Special Security Questionnaire, he tendered his resignation from the Khandeshana Elgar Party. In para 3 of that letter he requested for reconsideration of his application in proper perspective and undertook that he would be serving more honestly as expected and in the last line on that page he specifically stated that - "please consider my application kindly for my future otherwise there is no way remain for me except one to go in court to solve the mystery".

3. Contentions of parties:-

Applicant's advocate has submitted that:-

3(a) . in case law **Avtar Singh Vs. Union of India & Ors. Special Leave Petition @ No.20525/2011 [with**

SLP (C) Nos.4757/2014 and 24320/2014], the subject matter considered is of suppression of information or submitting of false information in the verification form and its consideration by the employer while deciding cases of candidates employed on forged documents or after suppression of information material to the case. The applicant had no intention of suppressing any information while submitting replies to the respondents in the Special Security Questionnaire;

3(b). the applicant did not belong to any political party or organization. The organization to which he belonged earlier dealt only with social activities and that is why he had submitted negative reply to question no.9 of the questionnaire;

3(c). Since he was not a member of any cultural or social organization associated with foreign mission or organization, he replied to question no.10 in the negative;

3(d). the applicant also brought to the notice of the respondents the fact of his resignation as President of Khandeshana Elgar, Jalgaon District on 04.04.2015 which was accepted on the same day;

3(e). a reply submitted by the applicant as above was because of his belief that political parties are only those which are registered as such with the

Election Commission of India;

3(f). the applicant is fully qualified for the post of Work Assistant/A with the respondents organization and, therefore, rejection of his case by the respondents vide letter dated 09.07.2016 (Annex A-11) is illegal, wrong and without application of mind. Therefore, this order contained in the letter dated 09.07.2016 be quashed; and

3(g). in view of this, the applicant should be declared as qualified for the post of Work Assistant/A in the respondents organization.

Respondents' Advocate has submitted that :-

3(h). in his so-called resignation letter dated 04.04.2015, the applicant mentioned that as he had been appointed as Work Assistant/A in BRIT, he did not want to continue as President of Jalgaon (Gramin) Taluka of Khandeshana Elgar and, therefore, his resignation to the post of President of Khandeshana Elgar, Jalgaon should be accepted;

3(i). in contradiction to the above, in his letter dated 29.08.2015, the applicant stated that after receipt of the Special Security Questionnaire and attestation forms from BRIT/BARC, he had resigned from the post of President, Khandeshana Elgar, Jalgaon;

3(j). the contradictory contents of the above two letters proves that the claim of the applicant in the letter of 04.04.2015 is false, because he was informed by the respondents about his nomination for appointment to the post of Work Assistant/A, vide Ref. No.BRIT/Gen./Rectt./WA 2015/683 only through the letter dated 17.04.2015, hence there was no question of his appointment prior to 04.04.2015;

3(k). therefore, his one claim that he resigned after receipt of the attestation form and Special Security Questionnaire with the letter of 17.04.2015 and his other claim that he had been appointed as Work Assistant in BRIT are contradictory to facts hence false;

3(l). thus he has not only suppressed factual information material to his appointment but subsequently has also deliberately tried to conceal the facts;

3(m). the revelation about association of the applicant with Khandeshana Elgar Party came to light during verification process carried out by the respondents and thereafter the clarification was sought from the applicant in August 2015;

3(n). Question 10(c) of the Special Security Questionnaire is regarding previous membership of the candidate with any club or society or any other

such bodies and thus this part of the question is different from the questions asked under 10(a) and 10(b);

3(o). the respondent no.2 is a constituent unit of the Department of Atomic Energy, it is of high national importance and is highly sensitive in respect of security considerations. Hence prior verification of antecedents of the candidates is conducted and the decision of rejection of his employment is based on the clarification and information furnished by the applicant himself. No arbitrary parameters have been used in disqualifying the applicant for this. Therefore, the decision of the respondents is correct, totally justified and the claim of the applicant deserves to be totally rejected.

4. Analysis and Conclusions:-

4(a). We have gone through the contents of the application memo submitted by the applicant, various annexes attached to it, reply of the respondents, additional material submitted by the applicant with respect to Uttar Maharashtra Khandeshana Elgar Rayat Sanstha and the case law cited by the applicant's counsel.

4(b). On close examination of the contents of the O.A. memo and the other documents submitted by the

applicant, it is revealed that there is inconsistency in the claims and submissions made by the applicant in replying to the Special Security Questionnaire sent to him alongwith the letter of 18.04.2015 and the reply submitted by him subsequently in the form of clarification on 29.08.2015. While submitting the reply to the Special Security Questionnaire, he had mentioned negative reply to question no.9 about his association with any political party or organization. However, in his subsequent clarifications letters of 09.12.2015 and 16.06.2016, he admitted that he had been President of the Khandeshana Elgar, Jalgaon a member of UMKES Rayat Sanstha's Khandeshana Elgar Party from February 2014 and claimed that there was no ill intention to suppress any of the information;

4(c). First he denied his association with any of social, cultural or political party or participation in political activities. When the respondents came to know about his association with the UMKES, Rayat Sanstha's Khandeshana Elgar party and thus his lies got exposed, he admitted that he had been President of its Jalgaon Unit since February 2014, claimed it to be a social organization and further claimed to have resigned from that position on 04.04.2015.

4 (d) . He has claimed innocence in this regard by saying that his understanding of political party was only about those political parties which are registered with the Election Commission of India and, therefore, he replied in the negative in the Special Security Questionnaire. But this is an attempt at being too clever by half.

4 (e) . Some of the documents submitted by him at the time of hearing pertaining to the organization under reference reveal its registration on 03.05.2011 as Uttar Maharashtra Khandeshana Elgar, with over-writing to mention it as Ek Sangh Rayat Sanstha in place of Elgar. So whether the registered organization is Uttar Maharashtra Khandeshana Elgar or Uttar Maharashtra Khandeshana Ek Sangha Rayat Sanstha is not clear. The name of the organization in which the applicant has been an office bearer is that of a party. The word 'Elgar' in Marathi means a determined attack, a furious assault. This reveals that the organization is a political outfit, and its activities are political in nature.

4 (f) . From the above facts it becomes clear beyond doubt that the applicant while submitting reply to the Special Security Questionnaire not only suppressed material information about his

association with UMKES Rayat Sanstha's Khandeshana Elgar party and thus his past participation in political activities of his organization, but subsequently he has also attempted chicanery to hide these facts in his subsequent replies to the respondents. The ignorance claimed by him about knowledge of political parties, political activities, etc is also totally unbelievable. In the whole process, he has not approached with clean hands and clean mind. From the language used by the applicant in his correspondence with the respondents, it is evidently clear that he is not innocent or ignorant. It reveals high level of his understanding of the issues and his letter claiming his resignation on 04.04.2015 seems to be a fake document based on after thought, when his earlier false claim in the Special Security Questionnaire came to be exposed during verification done by the respondents.

4 (g). In his clarification he also undertook to be more honest in future and in fact also mentioned a clear warning to the respondents in his letter dated 16.06.2016 to the effect that in case his application was not considered, he would go to Court to solve the mystery. All these facts reveal the applicant to be an unreliable person of dishonest

character and doubtful antecedents.

4(h). In view of the above facts of the case, the claim of the applicant is totally false, unreliable and devoid of merits.

4(i). The submissions of the respondents in this case and the action taken by them in not employing the applicant are fully justified. This is also supported by the view in the case law Avtar Singh (supra) cited by the applicant's counsel, in which it has been clearly held that on the basis of fraudulently obtained employment, such employee cannot get any equity in his favour or any estoppel against the employer. Verification of the character and antecedents is one of the important criteria to test whether the selected candidate is suitable to the post under the State and on account of his antecedents, the appointing authority if finds it not desirable to appoint a person to a disciplined force, it cannot be said to be unwarranted.

4(j). In fact the above view taken by the Hon'ble Apex Court in this case law goes squarely against the applicant himself. It has also been held in this case law that in case any lenient view is taken in cases of fraudulent practices, it would amount to putting premium on dishonesty and sharp practice.

5. Decision

In view of the above analysis of facts of the case, the OA submitted by the applicant is dismissed with cost of Rs.10,000/- to be deposited by him with CAT Bar Association, Mumbai for use of library within three weeks from receipt of certified copy of this order.

(Smt.Ravinder Kaur)
Member (J)

(Dr.Bhagwan Sahai)
Member (A) .

V/H.