

CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH
(orders reserved on 17.12.2018).

O.A.NO. 060/00064/2017 Date of order:- 17.1.2019.

Coram: **Hon'ble Mr. Sanjeev Kaushik, Member (J)**
Hon'ble Mrs.P.Gopinath, Member (A).

Amit s/o Sunder Singh, V.P.O. Gumar Tehsil Ganaur, Sonapat.

.....Applicant.

(By Advocate :- Mr. Sandeep Siwatch)

Versus

1. Union of India through the Secretary, Government of India, Ministry of Personnel, Public Grievances & Pensions, Department of Personnel & Training, New Delhi.
2. Deputy Director (NWR) Staff Selection Commission, Kendriya Sadan, Ground floor, Sector 9, Chandigarh.
3. Assistant Director, Govt. of India, Department of Personnel & Training, Staff Selection Commission(NWR), Kendriya Sadan, Sector 9, Chandigarh.

...Respondents

(By Advocate: Mr. Sanjay Goyal).

ORDER

Sanjeev Kaushik, Member (J):

By means of the present petition, the applicant seeks the following relief(s):-

"i) Direct the respondents to consider and appoint the applicant to the post of MTS(non technical) staff in U.T. Chandigarh from due date with all consequential benefits being fully eligible and being more meritorious than other selected candidates;

ii) For issuance of direction to the respondents to decide the claim of the applicant raised by the applicant vide legal notice dated 02.02.2015(Annexure A-8) served upon the respondents in the month of February, 2015 and legal notice dated 7.9.2016(Annexure A-15) as per the direction of the Hon'ble Tribunal order dated 3.8.2016(Annexure A-11) and the same is pending till date. The same may be directed to finalize as soon as possible".

2. Facts as projected by the applicant are that in pursuance of advertisement dated 16.11.2013 for filling the posts of Multi Tasking (non-technical) staff in different states and Union Territories for 2014, he being fully eligible applied for the said post for U.T. Chandigarh under general category. Applicant appeared in paper-I examination on 16.2.2014 under roll no.1601020195 and he was declared successful in the examination. On the basis of result of Paper-I, respondents vide letter dated 18.7.2014 fixed the cut-off marks, category-wise for calling the candidates to appear in paper-II examination and the name of the applicant was also included in the short-listed candidates. Accordingly, applicant appeared in the paper-II examination; he was declared successful and vide letter dated 24.9.2014, he was called provisionally for document verification on 30.9.2014. Finally, vide letter dated 20.10.2014, respondents issued the final list of selected candidates along with vacancy position, wherein the name of the applicant was not mentioned in the list of selected candidates.

3. Feeling dis-satisfied with the non-inclusion of his name in the final list, applicant submitted representation dated 11.11.2014 for addition of his name, but to no avail. Thereafter, applicant served a legal notice dated 2.2.2015 to consider and appoint him on

the post of MTS(non-technical). Applicant has further stated that respondents vide memo dated 16.10.2015 called him for obtaining his supplementary signatures & handwriting samples, which he has given, which were sent to CFSL for verification. When no action was taken to appoint him, the applicant approached the Tribunal by filing O.A.No.060/00702/2016 which was withdrawn by him vide order dated 3.8.2016. Thereafter, applicant sought information from the respondents under RTI Act vide application dated 8.8.2016 which was supplied to him vide letter dated 23.8.2016. Thereafter, applicant again approached the Tribunal by filing O.A.No.060/00842/2016 and the same was dismissed as withdrawn with liberty to file the fresh one on the same cause of action. Hence the present OA.

4. Pursuant to notice, the respondents have filed short reply, wherein they have submitted that the applicant had submitted single online application and filled his option of State as Haryana in column 1 of the online application but he filled code of the opted state as 28 i.e. Chandigarh in col. 1.1 of application form. They have further stated that at the time of verification of documents, applicant had again opted his State as Haryana. At the time of filling of date on online verification system, he had given an undertaking that "the above data is checked by undersigned and found correct. The preference of post/department as mentioned above has been filled online and exercised by me carefully. The same may be treated as final". The final result of the applicant was declared for the vacancies in Haryana State as per option given by him and he was not selected due to low merit and marks of the last selected general candidate

for Haryana State were 120.25, whereas present applicant secured only 111.50 marks. They have thus prayed for dismissal of OA.

5. Applicant has filed a rejoinder by generally reiterating the averments made in the OA.

6. We have heard the learned counsel for the parties and have perused the material placed on record.

7. A conjunctive perusal of the pleadings on record would show that the applicant while filling up the on line application for the post of Multi Tasking (Non-Technical) Staff in different States/UTs, 2014, against advertisement issued by the Staff Selection Commission, had specifically mentioned against name of the State/U.T as "Haryana". However, the State/U.T. Code against column Code is written as '28' which happens to be of Chandigarh. During On-Line verification of Data also, the applicant has mentioned his State as Haryana and this time he has mentioned the correct code as 30. In other words, with his eyes wide open, he had selected consideration of his candidature against the posts meant for Haryana. In the Haryana State, he is down below in merit and as such could not be offered appointment by the respondents.

8. Now, when people who selected U.T. Chandigarh, as per options available to them, and got appointment, even if low in merit, than the applicant, who had chosen Haryana as a state, the applicant cannot be allowed to turn around and claim that his candidature should be considered and he be offered appointment against the

posts meant for U.T. for which a different merit list was prepared. It is based on a policy decision taken by the respondents in which we do not find any grounds made out to interfere. We have no hesitation in accepting the stand taken by respondents that the applicant himself has to blame for the fiasco in question. Had he chosen Chandigarh as his option against which his candidature was to be considered, he would have got the appointment. But now he cannot turn around and claim that his option should be changed, as it would be opposed to the policy and procedure followed by the respondents. The principle of estoppel would apply against the applicant in this case. Once he allowed the respondents to act in a particular manner on the basis of his option given twice for choosing Haryana as state against which he wanted appointment, then he cannot be allowed to change that option when respondents have taken action on such option and made appointments.

9. In view of discussion made herein above, we do not find any merit in the OA and the same is dismissed, with no order as to costs.

(SANJEEV KAUSHIK)
MEMBER (J)

(P.GOPINATH)
MEMBER (A).

Dated:- 17.1. 2019.

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