

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH: HYDERABAD**

Original Application No. 1156 of 2013

**Reserved on: 15.04.2019
Pronounced on: 26.04.2019**

Between:

Chekka Kishore, S/o. Krishnamurthy,
Aged about 33 years, Occ: Unemployed,
R/o. LIG-46, Simhapuri Colony,
Vepagunta Post, Visakhapatnam – 530 047.

... Applicant

And

1. Union of India, Rep. by its Secretary,
Ministry of Defence, South Block,
Post DHQ, New Delhi – 530 004.
2. The Director General of Quality Assurance,
DGQA Complex, Commissionerate Road,
Hastings Road Office, Kolkata – 700 022.
3. The Admiral Superintendent,
Naval Dock Yard, Visakhapatnam – 530 014.
4. The Senior Administrative Officer,
The Manager (Personnel),
Naval Dock Yard, Visakhapatnam – 530 014.

... Respondents

Counsel for the Applicant	...	Mrs. Anita Swain
Counsel for the Respondents	...	Mr. A Surender Reddy, Addl. CGSC

CORAM:

Hon'ble Mr. Justice R. Kantha Rao, Member (Judl)

Hon'ble Mr. B.V. Sudhakar, Member (Admn.)

ORDER

{As per Hon'ble Mr. B.V. Sudhakar, Member (Admn.) }

2. OA is filed challenging the action of the 3rd respondent in filling up the posts of Tradesman (Skilled) only on the basis of open advertisement in violation of recruitment rules which provide for absorption of ex-apprentices in the designated skills under 60% quota.

3. Brief facts of the case are that, the applicant, who belongs to SC community, completed SSC with ITI in Welder Trade in the year 2000. He obtained a certificate in the said trade from the Naval Dockyard Apprentice School (in short “NDAS”), Visakhapatnam and also from the National Council for Vocational Training. Applicant applied for the post of Tradesman against advertisement No. 1/03 issued by the respondents in December 2003. Applicant was not selected. Thereafter, notifications were further issued in the years 2006, 2007, 2009, 2011 and 2012 respectively. The applicant appeared in the written tests held against the notifications cited, but he could not come out successfully. During these years, father of the applicant and the SC, ST Association represented to the respondents stating that there were certain deficiencies in the notification which need to be rectified for facilitating absorption of the applicant. Applicant alleges that without rectification of the cited defects, respondents went ahead with the selection. Finally, the respondents have issued one more notification in 2013 for filling up the Welder posts. As the respondents are not following rules in selecting candidates, the OA is filed.

4. The main contention of the applicant is that Recruitment Rules to the posts of Group C and D of 2000, as amended in 2002, specifically laid down that for the purpose of designated Tradesman, they have to earmark 60% of the posts for absorption. Violation of recruitment rules tantamount to violation of Article 309 of the Constitution of India. Special relaxation meant for SC & ST employees was not extended. The respondents hesitated to give information on the recruitment of Tradesman when asked under RTI which gives room for suspicion. The applicant contends that 90% of the posts of Tradesman have to be filled through absorption.

5. In response, the respondents intimate through their reply statement that training of apprentices in Dockyard Apprentice School in the designated trade such as Welder is undertaken in order to fulfil the obligations of Apprentice Act, 1961. In terms of Apprentice Act, 1961, Naval Dockyard has no obligation to offer any employment to such apprentices trained under the Act. Provision existed in recruitment rules SRO 150/2000 for filling up 60% of the vacancies by absorption of ex-DAS. As the number of personnel trained in designated trades is much higher than the number of vacancies available absorption in the dockyard cannot be taken up immediately after training and there is large backlog of candidates. Therefore, a particular procedure has been adopted to select the candidates through written examination and seniority in passing out from the DAS. The last SC candidates selected as per the recruitment rules in 2011 and 2012 belonged to 1991 & 1992 batches respectively whereas the applicant belongs to 2000 batch. He has to wait for his turn as the number of vacancies is limited. Besides, in the year 2012, recruitment rules have been amended vide SRO 43/2012 as per which the selection has to be done on all India basis from candidates who possess National Apprentice Certificate and not just from the ex-DAS apprentices. Accordingly, 2012 notification has been issued and the same is under process. The respondents have clarified that 90% of the posts are to be filled up in respect of non-designated trades and not for designated trades. Welder post is a designated trade.

6. Heard both the counsel and perused the documents/ material papers submitted.

7(I) The applicant has passed ITI in Welder Trade. He appeared in the notifications for filling up the posts of Welder trade from 2003 onwards. The procedure adopted by the respondents in filling up the posts is as under:

- a) Notification is issued in the employment news intimating the number of vacancies in each trade and calling for applications only from ex-DAS apprentices for their absorption.
- b) Eligible candidates were required to appear for a written examination to determine their suitability.
- c) Candidates who clear the suitability test and who were found medically fit were absorbed in the order of their seniority of completing of training at Dockyard Apprentice School.

Vacancies are filled up in the ratio of 60% from ex-apprentices and 40% by promotion. In view of the large number of candidates applying for the vacancies, the procedure cited above was adopted. The applicant appeared in all the written examinations against the notifications, but could not succeed. Respondents have followed the recruitment rules by absorbing ex-apprentices against 60% quota. However, the number of vacancies being limited, only few candidates could be selected. They also followed reservation policy in selecting the reserved community candidates. The applicant is under the impression that respondents publishing an advertisement would mean that is open to all candidates in the market. The advertisements were issued only for ex-apprentices of DAS to apply. Hence, his contention that respondents invited candidates from open market is incorrect. In order to give a fair opportunity to all the candidates, respondents are conducting a written test and those who clear the written test are considered based on the seniority of passing from DAS. Respondents intimate that the SC candidates who got selected against 2011 & 2012 notifications belong to 1991 & 1992 batches respectively. The applicant is from 2000 batch and therefore, he has to necessarily wait for his turn, once he clears the exam as per eligibility.

II. Incidentally, in the year 2012, recruitment rules have been amended vide SRO 43/2012 wherein a provision has been brought into vogue which allows all ITI candidates who possess the National Apprentice Certificate in the relevant trades to compete for selection against posts advertised. The preference which was available earlier to consider only those candidates from DAS has been deleted. Thus, as can be seen from the above, respondents have followed the recruitment rules. The candidates being many, they had to conduct written examination and those who passed the examination were considered based on the order of passing from the DAS. It is also seen from the details submitted by the respondents that SC, ST candidates were selected against relevant vacancies. Applicant has to compete and get selected. The applicant does have a right to be considered but does not enjoy the right to be appointed. The respondents have all through considered the applicant by allowing him to appear in the exam. Applicant appeared in the written examinations conducted by the respondents but he could not succeed.

III. We do not, therefore, find any irregularity in the approach of the respondents in filling up the posts for all trades which are being operated by the respondent organization. Applicant could not qualify and hence he was not selected. Hence, there being no merit in the OA the same is dismissed, with no order as to costs.

(B.V. SUDHAKAR)
MEMBER (ADMN.)

(JUSTICE R. KANTHA RAO)
MEMBER (JUDL.)

Dated, the 26th day of April, 2019

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