

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

OA 293/2014
MA 401/2015

Reserved on: 16.04.2019
Pronounced on: 25.04.2019

Hon'ble Ms. Nita Chowdhury, Member (A)
Hon'ble Mr.S.N.Terdal, Member (J)

Mrs. Soniya Kashyap,
Age 29 years,
W/o Sh. Sunil Kumar,
R/o Jamun Mohalla, Lalkurti,
Meerut Cantt., Meerut.

... Applicant

(By Advocate: Mr. S. K. Gupta)

VERSUS

Union of India through the

1. Secretary,
Ministry of Defence,
South Block, New Delhi.
2. Engineering in Chief,
Military Engineering Service,
Kashmir House, New Delhi.
3. Headquarters/Commander Works Engineer,
Military Engineering Service,
29-J, The Mall, Meerut Cantt.,
Meerut.

... Respondents

(By Advocate: Mr. Ashok Kumar)

ORDER

(Hon'ble Mr. S.N.Terdal, Member (J)):

We have heard Mr.S.K.Gupta, counsel for applicant and Mr. Ashok Kumar, counsel for respondents, perused the pleadings and all the documents produced by both the parties.

2. In this OA, the applicant has prayed for the following reliefs:

- “(i) declare the action of respondents in not allowing the applicant to join duties after issuing the appointment letter as illegal and arbitrary;
- (ii) direct the respondents to issue the appointment letter of the applicant forthwith for the post of Mate and allow the applicant to join her duties with all consequential benefits;
- (iii) May also pass any further order(s), direction(s) as be deemed just and proper to meet the ends of justice.”

3. The relevant facts of the case are that the applicant had applied for the post of Mate in various offices of the respondents' organization under OBC category. She was placed at serial no. 6 in the waiting list of total 11 candidates in the OBC category. As per the applicant there were seven(7) posts lying vacant at the relevant time yet the respondents have not appointed the applicant out of the above said waiting list of 11 candidates in which her name was occurring at serial no.6. Being aggrieved by the alleged action of the respondents, the applicant has filed the present OA seeking the above stated reliefs. In support of his contention, the counsel for the applicant relied on the judgment passed by the Calcutta High Court in the case of **Lt. Governor And Ors. Vs. M.Deepa and Anr.** (2008(1) CHN 607).

4. The respondents have filed a counter reply affidavit. They have admitted that the applicant was at serial no. 6, but however, their case is that only four(4) vacancies arose due to non-joining of candidates from the select list and they appointed four candidates from the wait list and that thereafter no vacancy ever existed. The relevant portion of the averment made in the counter reply affidavit is extracted below:

“Para-1. The contents of the corresponding para of the OA, except those being matter of record, are wrong, misleading and misconceived and hence vehemently denied. The averments made by the applicant are not true regarding

vacancies lying vacant for Mate which are meant for OBC category. The applicant is not having any enforceable or vested right merely because her name is placed in the waiting list at Sl.No.6. As per recruitment procedure separate category wise reserve panel has been drawn out keeping in view the merit position of the candidates. As per the merit and the category, the applicant has been listed in the OBC category reserve panel. Subsequent to issue of appointment letters, 4(four) vacancies against OBC category have arisen due to non-joining of candidates and the above stated vacancies have been filled up from the reserve panel against OBC category. Presently, no vacancy exists against OBC category after issue of appointment letter as all the candidates have joined the duty as per appointment letter.”

5. At the time of hearing on 14.03.2019 when at the insistence of the counsel for the applicant, the respondents were directed to specifically state as to the vacancies and the names of candidates who were appointed and date of appointment by way of an affidavit. The relevant order is extracted below:

“The matter was heard. Counsel for respondents is directed to specifically state the date on which the reserve panel vacancies were taken and candidates up to Item No. 4 were considered.”

In response to the said direction, the respondents have filed a short affidavit on 29.03.2019, specifically giving the details as extracted below:

“S.No.	Name	Date of issue of appointment letter
1.	Sh.Abhishek Raj S/o Sh. Parash Prasad	06.04.2013
2.	Sh.Rakesh Kumar Chaurasiya S/o Sh. Jagdish Prasad Chaurasiya	06.04.2013
3.	Sh. Ajit Kumar S/o Sh. Vinod Kumar	06.04.2013
4.	Sh.Sanjeev Kumar Tomar S/o Sh.Rakesh Kumar Tomar	06.04.2013”

In view of the facts stated above on affidavit by the respondents, the relief prayed for by the applicant being in serial no. 6 in the wait list cannot be acceded to and also in view of the facts and circumstances narrated above, the judgment of the Calcutta High Court in the case of M.Deepa and Anr (supra) is not applicable.

6. Accordingly, the OA is dismissed. No order as to costs.

(S.N.Terdal)
Member (J)

(Nita Chowdhury)
Member (A)

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