

Central Administrative Tribunal Principal Bench, New Delhi

O.A. No.28/2014

Wednesday, this the 8th day of May 2019

Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Ms. Aradhana Johri, Member (A)

Dr. Tanzen Wangchuk
s/o Sh. Amar Nath
aged about 31 years
r/o Room No.14, Jameel Hostel
A&U Tibbia College
Karol Bagh and had applied for the post of
Research Officer (Unani)
Against a reserved post for ST

..Applicant

(Mr. S S Tiwari, Advocate)

Versus

1. Central Council for Research in Unani Medicine
Through its Director General
61-65, Institutional Area, Janakpuri,
New Delhi
2. Administrative Officer
Central Council for Research in Unani Medicine
61-65, Institutional Area, Janakpuri,
New Delhi

..Respondents

(Mr. M K Bhardwaj, Advocate)

O R D E R (ORAL)

Justice L. Narasimha Reddy:

The Central Council for Research in Unani Medicine issued an Advertisement No.04/2013 as a Special Recruitment Drive, to select and appoint candidates belonging to Scheduled Castes (SCs), Scheduled Tribes (STs) & OBC. The applicant is the candidate belonging to ST community and applied for the

same. The process involved conducting of written test, followed by interview. He contends that though 4 posts were reserved for ST, not a single candidate was selected and appointed, and that the procedure adopted by the respondents is illegal, arbitrary and unconstitutional. It is also pleaded that the respondents have defeated the rights guaranteed under the Constitution of India.

2. The respondents filed the counter affidavit opposing the O.A. It is stated that though the applicant participated in the written test, neither he nor any other, belonging to SC/ST, secured the minimum marks in the written test, and still all of them were called for interview. It is stated that in the process, 3 candidates belonging to SC and one belonging to ST appeared, but the Selection Committee found only one of them to be fit and accordingly, that candidate was appointed. Various contentions urged by the applicant are denied.

3. We heard Mr. S S Tiwari, learned counsel for applicant and Mr. M K Bhardwaj, learned counsel for respondents.

4. The Advertisement itself was exclusively for reserved categories candidates. The number of vacancies available for each category was also mentioned. The process included conducting of written test, followed by interview. The applicant, or for that matter other candidates of SC & ST, could not secure the minimum marks meant for them, in the written test.

Despite that, the respondents issued call letters for interview to 6 candidates belonging to SC and one candidate belonging to ST. Out of them, 3 SC candidates and one ST candidate appeared. Only one of them, namely, Dr. Rajesh, was found fit.

5. The applicant contends that despite the Office Memoranda issued by the Government from time to time, providing for relaxation of standards and limits in favour of such candidates, the respondents applied the general standards and as a result, the applicant was not selected. The respondents denied the same and stated that the requirement as to securing of minimum marks was also relaxed. It is, however, stated that the Selection Committee did not find any of the candidates, belonging to ST category, fit and accordingly no candidate from that category was selected. The relevant portion of the counter affidavit reads as under:-

“1.The respondents have conducted the selection fairly and in accordance with prescribed procedure. Applications were invited for the post of Research Officer (Unani), but the applicant was not found suitable for the post by the Selection Committee and hence, not recommended for appointment. As such he could not be offered appointment to the post of Research Officer (Unani). Keeping in view the job responsibilities and aptitude for Research, the Competent Authority has decided to enhance the qualification for the post of Research Officer (Unani) to Post Graduate Degree in Unani and Advt. No.04/2013 has been issued, accordingly.”

6. The procedure adopted by the Selection Committee is also mentioned as under:-

“.... Merit is prepared on the basis of marks secured by various candidates and inter-se-seniority / criteria is decided by the Selection Committee accordingly. In any case, the marks secured by applicant have already been intimated to him. How can the applicant challenge the competency of selection committee to determine the suitability of candidates. There is neither any rule nor law which require for disclosing minimum cut-off marks in written test or interview. In the present case also the selection committee examined the suitability keeping in view the nature of appointment and did not found the applicant fit for appointment in view of his performance in Written Test and interview. There is no ground for feeling aggrieved as the applicant was not found suitable and fit for the post by the selection committee.”

7. Time and again, Hon'ble Supreme Court held that the Court or the Tribunal cannot sit as an appellate authority over the functioning of a Selection Committee. It is only when any *mala fides* are pleaded, that the occasion may arise to further verify the records. Once the expert body found the applicant as not fit to be appointed as Research Officer (Unani), we cannot act as an appellate authority. The post is pivotal in nature and the applicant has not pointed out any deviation from any specific norm. On the other hand, the respondents deviated from norms with a view to find as many candidates as possible to fill the vacancies.

8. A perusal of the Minutes of the Selection Committee discloses that though none of the SC/ST candidates have secured the minimum marks in the written test, but all of them were called in the interview. It reads as under:-

“3. Against the five posts reserved Scheduled Caste and two posts reserved for Scheduled Tribe in total 06 candidates belonging to Scheduled Caste and one candidate belonging to Scheduled Tribe Category were called for written test/interview by giving them relaxation in experience. Only 04 candidates (SC-03, ST-01) appeared for the test and irrespective of marks obtained by them in the written test, they were interviewed for the post. The Selection Committee recommended following candidates for appointment against the reserved post of the respective category, in order of merit:

- Dr. Rajesh

The other candidates were not found suitable for the post.”

9. In view of the discussion undertaken above, we do not find any merit in this O.A. It is accordingly dismissed.

There shall be no order as to costs.

(Aradhana Johri)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

May 8, 2019
/sunil/