

**Central Administrative Tribunal
Ernakulam Bench**

OA No.180/00166/2019

Thursday, this the 11th day of July, 2019.

CORAM

**Hon'ble Mr.E.K.Bharat Bhushan, Administrative Member
Hon'ble Mr.Ashish Kalia, Judicial Member**

Arundas C., aged 30 years
S/o Christudas
Ettukutty Kizhakkariku Puthenveedu,
Kanjiramkulam P.O.,
Thiruvananthapuram-695 524.

Applicant

(Advocate: Mr. T.Naveen)

versus

1. Sree Chitra Tirunal Institute for Medical Sciences & Technology
Thiruvananthapuram-695 011, represented by its Director
2. The Administrative Officer
Sree Chitra Tirunal Institute for Medical Sciences & Technology
Thiruvananthapuram-695 011.
3. The Senior Deputy Director (Admn)
Sree Chitra Tirunal Institute for Medical Sciences & Technology
Thiruvananthapuram-695 011.
4. Kiran R.,
Kaavya Bhavan, Bhagavathinada,
Balaramapuram P.O.
Thiruvananthapuram-695 501. Respondents

(Advocate: Mr. T.R.Ravi, ACGSC for R1 to 3)

The OA having been heard on 5th July, 2019, this Tribunal delivered the following order on 11.7.2019:

ORDER**By Ashish Kalia, Judicial Member**

This OA is filed by the applicant to set aside Annexure A9 order and seeking a direction to appoint him to the post of Technician (Fitter) in the first respondent institution either against the fourth vacancy or against the fifth vacancy on the basis of his inclusion in Annexure A3 rank list.

2. The applicant applied for the post of Technician (Fitter) and participated in the selection process conducted by the first respondent. Subsequently the second respondent published a rank list of selected candidates for the post in question on 10.7.2017. The applicant's name is shown at Sl.No.5 in the said rank list. As per Annexure A3, the rank list will be valid for a period of 2 years from 10.7.2017 and appointment will be made subject to availability of vacancy/requirement. It is submitted that candidates included in the rank list from Sl.No.1 to 4 are already given appointment by the respondents. Initially there was only one vacancy and later four more vacancies became available.

3. As per RTI information received by the applicant, he is the next eligible candidate to be considered for appointment in accordance with his rank position. It is further stated that the applicant applied for the post as an unreserved category as the one vacancy notified was against un-reserved category. The applicant belongs to OBC but he applied for the post without availing the benefit of reservation. He also submitted relevant documents to show that he belongs to the OBC category.

4. The applicant approached the respondents with a request to consider him against the existing one vacancy and preferred a representations dated

27.7.2018 and 6.10.2018, but this was to no avail. Left with no alternative, the applicant has approached this Tribunal with the present OA.

5. Notices were issued and the respondents put up their appearance through learned counsel Sri T.R.Ravi, ACGSC who has filed reply statement. He has submitted that present OA is preferred on the basis of him having been included in the rank list of vacancies in the unreserved category and he is entitled to be appointed to the said post which comes under the reserved category.

6. Admittedly the rank list as per Annexure A3 was drawn up on the basis of selection process initiated for filling up in the unreserved category for the said post. At the time of notification, there was only one vacancy. Later on, four new posts were created and going by the reservation roster, three of the vacancies are to be filled up from unreserved category and the fourth vacancy is to be in the reserved category.

7. Hence out of four newly created vacancies, the three posts available for general category were filled up from the available rank list which is valid for 2 years. The applicant can be considered only to the next arising vacancy in the general category if such vacancies arise during the validity period of the rank list as the respondents are not able to fill up the reserve category posts without initiating the selection process for such vacancies.

8. Hence the applicant is having no claim whatsoever to the 4th vacancy which is to be filled by unreserved category by due process of selection. The present OA is having no merit whatsoever and same is to be dismissed, contend the respondents.

9. Heard Sri T.Naveen, learned counsel for the applicant and Sri T.R.Ravi, learned ACGC on behalf of the respondents, at length. The applicant herein is at Sl.No.5 as per the rank list published by the respondents after selection for the post of Technician (Fitter). As per the notification dated 26.8.2015, it is stated that a panel valid for 2 years will be prepared for filling future vacancies belonging to the notified categories based on reservation roster. Applicant has relied upon this 'Note Clause' of the notification and sought the present vacancy for the next available candidate in the select list.

10. But the respondents have clarified that initially there was only one vacancy, thereafter 4 more vacancies were available for filling up. As per the general roster, the first three vacancies are meant for unreserved categories and the 4th vacancy which the applicant is claiming is for the reserved candidate. Since this notification was issued for filling up the general vacancies, the applicant's case was not considered.

11. The fact remains the applicant has also applied for the said post as a general candidate, forfeiting his claim as an OBC candidate. Had he claimed this reservation, he could not have been considered for the said post by separate process as this process was meant for selection of general category candidate. After applying as a general candidate in the selection process, the applicant legally cannot claim that he should be considered for the post meant for unreserved category. Even otherwise, the respondents have clarified that every future vacancy under the reserved category will be notified separately as per the reservation roster. Thus the applicant cannot claim, as a matter of right, consideration of his candidature for the said post.

12. In view of the facts and circumstances of the case, we are of the view that the present OA has no merit whatsoever and the same is liable to be dismissed. Accordingly the OA is dismissed with no order as to costs.

(Ashish Kalia)
Judicial Member

(E.K.Bharat Bhushan)
Administrative Member

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Annexures filed by the applicant:

Annexure A1: Copy of the Notice dated 26.8.2015 issued by the 1st respondent Institution.

Annexure A2: Copy of the Admit Card issued to the applicant.

Annexure A3: Copy of the Rank List published by the 2nd respondent.

Annexure A4: Copy of the communication dated 19.6.2018 issued by the Central Public Information Officer of the 1st respondent Institution.

Annexure A5: Copy of the order dated 2.4.2018 issued by the Personnel & Administrative Division of the 1st respondent Institution.

Annexure A6: Copy of the certificate dated 22.1.2018 issued by the Tahsildar, Taluk Office, Neyyattinkara.

Annexure A7: Copy of the representation dated 27.7.2018 submitted by the petitioner before the 1st respondent.

Annexure A8: Copy of the representation dated 6.10.2018 submitted by the petitioner before the 1st respondent.

Annexure A9: Copy of the communication dated 29.10.2018 issued by the 3rd respondent.

Annexure A10: Copy of the relevant pages of the Office Memorandum dated 2.7.1997 issued by the Department of Personnel & Training, Govt. of India.