

**CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH
KOLKATA**

OA No.1047 of 2012

Reserved on 15.03.2016

Date of order:18 .03.2016

PRESENT:

THE HON'BLE MR. JUSTICE VISHNU CHANDRA GUPTA, JUDICIAL MEMBER

THE HON'BLE MS. JAYA DAS GUPTA, ADMINISTRATIVE MEMBER

1. Shri Biren Ghosh, son of Subal Ch Ghosh, aged about 25 years, residing at Qtr No. H/45, Camp No.2, Kalai Kunda Air Force Station, Kalaikunda Air Field, Paschim Medinipore-721303 (West Bengal).
2. Shri Arup Mahata, Son of Jayanta Kumar Mahata, aged about 22 years, residing at Vill & Po. Khemasuli, PS. Kharagpur (L), Dist. Paschim Medinipore.
3. Shri Shyamal Mahata, son of Sushanta Kumar Mahata, aged about 22 years residing at Vill. Bara Kany Diha, Po. Mohim Nischanta, Dist. Paschim Medinipore, Ps. Sankrail, Pin-721513.
4. Shri Sankar Mahata, Son of Subhas Mahato, aged about 26 years, residing at MES Qtr No. H/46, Camp No.2, Air Force Station Kalaikunda, Kalaikunda Air Field, Dist. Paschim Medinipore, Pin-721303 (West Bengal).
5. Shri Bappaditya Mahata son of Narendra Nath Mahata, aged about 21 years, residing at Vill. Salboni, Po. Khemasuli, PS. Kharagpur, Dist. Paschim Medinipore, Pin-721513 (West Bengal).
6. Shri Himangshu Mahata, son of Ashis Kr Mahata, aged about 20 years, residing at Vill. Champasole, Po. Bodhana, Ps. Jhargram, Dist. Paschim Medinipore, Pin-721507 (West Bengal).

All applicants are unemployed youth.

.....Applicants

For the Applicant: Mr.A. Chakraborty, Counsel

-Versus-

CWA

1. Union of India through the Secretary, Ministry of Defence South Block, New Delhi-110011.
2. The Chief Engineer (Air Force), Military Engineer Service, Ministry of Defence, Silong Zone, Silong, Pin-793001.
3. The Commander, Works Engineer (Air Force), Kalaikunda, Kalaikunda Air Force, West Midnapur, West Bengal-721303.

.....Respondents

For the Respondents: Mr.B.P.Manna, Counsel

O R D E R

JAYA DAS GUPTA, AM:

The Applicants have filed this Original Application U/s. 19 of the Administrative Tribunals Act, 1985 seeking the following reliefs:

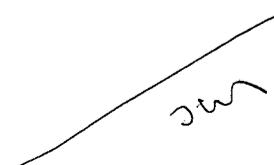
"a) Declaration that the selection process was vitiated for not recording the names and signature of the applicants in the answer script and also conducting the examination (written test) in two different schools in different hours;

b) The written test conducted should be cancelled as the process adopted by the authorities was absolutely illegal;

c) Leave may be granted to file this original application jointly under rule 4 (5) (a) of the CAT Procedure rule."

2. The Respondent-Department have filed their reply contesting the case of the applicants and the applicants have also filed their rejoinder.

3. The case of the applicants, in brief, is that they had appeared for the written test on 02.09.2012 for appointment to the post of Mate (Semi skilled) in various trades belonging to Ministry



of Defence. They had appeared under direct recruitment quota. Their names, however, did not figure in the select list based on the result of the written examination. The first grievance of the applicants is that the said examination was conducted in two different centres at different timings raising apprehension that question might have been leaked in the centre where the examination was held later. The second grievance of the applicants submitted in court is that while the advertisement at Annexure-A/1 reflects the condition that the written marks should be evaluated out of 75, the actual evaluation was done on 60 marks. This point however is not pleaded in his application. His third contention of the applicants is that they were not required to sign their names and signatures on their answer sheets but they and the invigilators signed their names with signatures in the separate sheets which were stapled with the answer sheets. For the above reason, they think that the selection process has not been conducted properly, they have filed this OA for redressal of their grievances.

4. As against the above, the respondent authorities have contested by stating that the examination and process thereof has been conducted strictly as per the Rules and the applicants have no case and the OA should be dismissed.

5. From the reply at para 7 the respondents have submitted that the examination was conducted from 1000 hrs to

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sheet containing the names, roll no etc of the candidate as alleged was not at all possible. It is pertinent to mention here that the stages of conduct of the written examination, coding/decoding and evaluation of the answer sheets were carried out by different Board of Officers so as to maintain transparency and thereby also complying with Higher HQ's direction as issued vide Director General (Pers.) Engineer in Chief's Branch, IHQ of Ministry of Defence (Army) New Delhi letter No. B/20172/CME Pune/EIC (1) dt. 28 May, 2012 received vide HQ Chief Engineer, Eastern Command, Kolkat letter No. 13103/02/Gp C/35/Engrs/EIC(1) dated 05 June 2012 attached as Annexure R1."

We are all satisfied that adoption of coding/decoding is warranted to ensure fair evaluation of papers and we see nothing wrong on it.

7. Regarding evaluation of answer scripts being made on 60 marks and not 75 marks as stipulated in the advertisement we are not adjudicating this matter since this point is not pleaded in the OA thereby not giving an opportunity to the other side to furnish the reply.

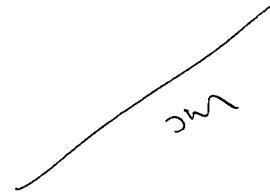
8. In the supplementary reply filed by the Respondents it is evident from paragraph 6 and annexure-E at page 20 that the applicants got less marks than the minimum cut off marks of 26 and as such they were not called for the interview. Annexure-E is quoted below:

Sl.No.	Posn of the applicants on written test	Admit Card No./Roll No.	Name of applicant and father name	Category	Written examination marks Mark out of 60	% marks written	10 th class marks %
1	499	0203/590	Sankar Mahata, S/o. Subhash Chandra	Gen	25	41.67%	46%
2	594	1378/1751	Bappaditya Mahata, S/o.	Gen	24	40%	42%

1100 hrs on 02.09.2012 at two centres i.e. KV Nos.1&2 located within AF station Kalaikunda. Since the number of candidates was large and since all the candidates could not be accommodated in one particular accommodation or school, the respondents were compelled to conduct the written test in two different locations (Schools). However, the candidates at both these centres were not allowed to leave their respective seats till such time the examination was over i.e. after 1100 hrs. The contention of the applicants that the examination was conducted at different hours is therefore totally false and denied into being devoid of any merit.

6. Regarding the point of not allowing to sign names on the answer sheet is concerned, the authorities have answered in para 10 of the reply as follows:

"10).As a matter of fact all candidates were asked to sign in the attendance sheet as taken of their presence and as proof of undertaking the written examination. It is a fact that a separate sheet wherein the signature of the candidates along with their details was obtained which was then stapled to their answer sheet. However, these sheets were removed only after coding both the sheet containing the details of the candidate and the answer sheet so as to ensure transparency during evaluation. A specimen of the answer sheet of one of the applicant named in the OA from which the system of coding adopted b y the respondent to ensure transparency will be evident is annexed as Annexure R2. Thus, the allegation of the possibility of detachment of the sheet containing their names etc is imaginary, beyond facts and baseless. Further the mode of coding of the answer sheet of each candidate is also reflected in an additional sheet attached with the attendance sheet from where it will be seen that a set of particular candidates in a particular class room have been serially coded and thus misplacement or detachment/replacement of the

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			Narendranath Mahata				
3	627	0483/2463	Himangshu Mahata, S/o. Ashis Kumar Mahata	Gen	23	38.33%	52.37%
4	706	0499/925	Shyamal Mahata, S/o. Sushanta Kumar Mahata	Gen	21	35%	34.75%
5	850	0713/1774	Bisren Ghosh, S/o. Subal Chandra Ghosh	Gen	19	31.67%	37.57%
6	1174	0188/2675	Arup Mahata, S/o. Jayanta Kumar Mahata	Gen	14	23.33%	45.62%

9. Going through the above facts we find that the applicants have not been succeeded in establishing their case.

10. Law is well settled in a plethora of judicial pronouncements that if a candidate participates in a selection process on norms based by the respondents then upon not finding the results palatable to him he cannot turn round and subsequently contend that the process of selection was unfair or the procedure adopted by the department was vitiated. In this connection it is apt to refer to the principle stated in the case of **Ranjan Kumar and others v State of Bihar and others** reported in 2014 16 SCC 187 and judgment of the Hon'ble Apex Court in **Madras Institute of Development studies and another vs S.Subramanian and another** reported in (2016) 1 SCC 454.

Going through the arguments advanced by the respective parties vis-a-vis the materials placed on record, we find that all the applicants after becoming unsuccessful in the selection

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have filed this Original Application challenging the process and procedure of the selection and as per the rulings of the Hon'ble Apex Court the case of the applicants falls flat.

11. In a catena of decisions the Hon'ble Apex Court have also held that no adverse order can be passed against persons who were not made parties to the litigation. In case the entire process of selection is declared bad in law, obviously and axiomatically the interest of the candidates who had come out successful in the process of selection would be adversely jeopardised if none of them has been arraigned as respondents in the OA. In this case none of the successful candidates in the written examination has been made a party.

12. We find that the respondent authorities have been successful in meeting all the contentions of the applicants logically. Hence, we do not find that there is any reason to interfere in the matter. The OA deserves to be dismissed and is dismissed. No costs.

(Jaya Das Gupta)
Member (Admn.)

(Justice V.C.Gupta)
Member (Judicial)

- (a) Sl. No. of the application.....
- (b) Name of the applicant.....
- (c) Dt. of presentation or application for copy.....
- (d) No. of pages.....
- (e) Copying fee charged/
urgent or ordinary.....
- (f) Dt. of preparation of copy.....
- (g) Dt. of delivery of the copy
to the applicant.....