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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. NO.965 OF 2003

New Delhi, this the 20th day of October, 2003

HON'BLE SHRI SHANKER RAJU, JUDICIAL MEMBER
HON'BLE SHRI R.K. UPADHYAYA, ADMINISTRATIVE MEMBER

Puran Lal
S/o Late Shri Lok Nath
Resident of Vill : Kotra,
Post: Itail, Distt: Jhansi.

.....Applicant

(By Advocate : Shri A.K. Trivedi)

Versus

1. Kendriya Vidyalaya Sangathan,
Through It's Commissioner
KVS HQs, 18, Institutional Area,
Sahid Jit Singh, Marg, New Delhi..
2. The Deputy Commissioner (Admn.)
Kendriya Vidyalaya Sangathan,
18, Institutional Area,
Sahid Jit Singh Marg,
New Delhi.

.....Respondents

(By Advocate : Shri S. Rajappa)

ORDER (ORAL)

Shri Shanker Raju, Judicial Member :-

Applicant impugns respondents' order dated 12.3.2003 rejecting his request for appointment to the post of Librarian in Kendriya Vidyalaya Sangathan (KVS).

2. The applicant, who is an ex-serviceman, having a post graduation degree in Library and Information Science in the year 1989, had applied for the post of Librarian in the year 1999, which post was advertised along with other posts by the respondents in the Employment News paper. Applicant appeared in the examination but his result was not declared. He had filed OA 149/2000 wherein directions had been

issued to declare the result and to inform the same to the applicant. In pursuance thereto, the respondents issued an interview letter to the applicant. Consequently, he appeared in the interview but no further steps had been taken by the respondents to appoint him despite making representations. Thereafter another OA 3392/2001 filed by the applicant was disposed of on 3.12.2002 with a direction to the respondents to dispose of the pending representation of the applicant. By an order dated 12.3.2003 passed by the respondents, it was informed to the applicant that he could not secure the cut off marks fixed for appointment of candidates belonging to Ex-serviceman category and the applicant was denied an offer of appointment to the post of Librarian giving rise to the present Original Application.

3. Learned counsel of the applicant - Shri A.K. Trivedi, contends that the action of the respondents is unconstitutional and in violation of Articles 14 and 16 of the Constitution. As the respondents were duty bound to declare the result which has deprived the applicant of his legitimate right of consideration.

4. It is further stated that the criteria of eligibility as laid down by the respondents has not been declared/disclosed and is de hors the instructions of reservation for an ex-serviceman to the extent of 10% quota. It is pointed out that relaxed standard is to be adopted and in the event,

the candidates are available, they are to be appointed against the required number of vacancies or in case the vacancies are not filled up, the same are to be carried forward in case of non-availability of the required candidates. But this quota should not have been filled from general category candidates.

5. On the other hand, learned counsel for the respondents - Shri S. Rajappa has vehemently opposed the contentions raised by the applicant and contested the OA by stating that the select panel was prepared on the basis of the final performance in written test as well as in the interview and the candidates were appointed on their own merit in terms of the recruitment held in the year 1999-2000. The cut of marks including relaxed standards has been fixed as under:-

(a)	General	128.75
(b)	OBC	114.50
(c)	SC	109
(d)	ST	104

6. It is further stated by the respondents that select panel of ex-serviceman could not be finalised as per the reservation for ex-serviceman. As the reservation for ex-serviceman is a horizontal reservation, no candidate belonging to ex-serviceman could come up within the above cut off marks fixed on the basis of general standard as per DOP&T's OM dated 15.12.1979 as contained in Para 6-A, which reads as under:-

"6-A. Lower standard for selection

In the case of direct recruitment, if sufficient number of candidates belonging to the ex-servicemen are not available on the basis of general standard to fill all the vacancies reserved for them, candidates belonging to the category of ex-servicemen may be selected under a relaxed standard of selection to make up the deficiency in the reserved quota subject to the condition that such relaxation will not affect the level of performance by such candidates."

Accordingly, it had been decided to give relaxation to ex-serviceman candidate upto the level of SC candidate, i.e., 109 marks out of 250 marks. As none of the candidates belonging to ex-serviceman category obtained 109 marks, as the applicant had obtained 42.78% marks out of 250 marks and was placed at serial No.12 of the list of 14 ex-servicemen. It is further stated by the respondents that having participated in the selection process and in the absence of any malafide or illegality, it is not open for the applicant to assail the selection. Shri Rajappa, learned counsel further contends that even selected candidates have no indefeasible right for appointment. The cut off marks not suffer from any irregularity and the same is the prerogative of the selection committee. Keeping in view of the rules and instructions and performance as well as the number of vacancies, the criteria laid down cannot be questioned into in a judicial review. In the absence of any illegality or malafide, the applicant is not entitled to any relief as prayed for by him in the present OA.

7. We have carefully considered the rival contentions of the parties and perused the material placed on record.

8. It is settled principle of law that a person, who has participated in selection process, is estopped from challenging the same unless it is vitiated by illegality of procedure or violation of rules or is malafide as held by the Apex Court in the case of Om Prakash Vs. Akhilesh, AIR 1986 S.C. 1043. We find that on application of the instructions on relaxation of ex-serviceman, as the relaxation is horizontal applying the general standard, as none of ex-serviceman candidates could fulfill the relaxed standard at par with the cut off marks laid down for SC candidates had not qualified under relaxed standards for appointment to the post of Librarian. The applicant had secured 42.75% marks out of 250 marks and placed at serial No.12, having failed to achieve the standards even as per the relaxed standards, no indefeasible right is vested in the applicant to claim appointment as a Librarian. As regards the cut off marks and procedure adopted by the selection committee is concerned, nothing could establish pointing it to be malafide, arbitrary or in violation of statutory rules. In a judicial review, criteria adopted by the respondents, having not established to be illegal, cannot be interfered with, as it is the prerogative of the respondents to lay down the criteria for the selection.

9. In the result, for the foregoing reasons, we find no good reasons to interfere with the impugned order passed by the respondents. Accordingly as the OA is found bereft of merit, the same is dismissed.

No costs.



(R.K. UPADHYAYA)
ADMINISTRATIVE MEMBER



(SHANKER RAJU)
JUDICIAL MEMBER

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