

**Central Administrative Tribunal
Principal Bench**

OA No.3649/2018

New Delhi, this the 15th day of October, 2019

**Hon'ble Justice Mr. L. Narasimha Reddy, Chairman
Hon'ble Mr. Mohd. Jamshed, Member (A)**

1. Kuldeep (Appointment, Group 'A'
Aged about 27 years
S/o Pratap Singh, R/o VPO-Ninan
Teh-Bhadra, Distt. Hanumangarh
Rajasthan-335511.
2. Sankit Sharan, (Appointment)
Group 'A', Aged about 25 years
S/o Sh. Ram Sharan
R/o KH. 10/25, Gali No.3
Khajani Nagar, Johripur
Delhi-110094.
3. Arvind, (Appointment) Group 'A'
Age about 26 years
S/o Sh. Sawai Singh
R/o H. No.3, VPO-Shimla
(BASS), Tehsil, Khetri
Distt. Jhunjhunu, Rajasthan
4. Harish (Appointment), Group 'A'
Age about 32 years
S/o Sh. Ramesh Chandra
R/o I-769 A Palam Vihar, Gurgaon
5. T. Sai Kiran Rao (Appointment)
Group 'A', Aged about 28 years
S/o T. Chandra Shekhar Rao
R/o 8-3-228/1280/324
Jawahar Nagar, Yousuf Guda
Hyderabad-045.
6. Praveen (Appointment) Group 'A'
Age about 22 years
S/o Sh. Rajender Prasad

R/o VPO-Kathuwas, Tehsil
Neemrana, Distt-Alwar
Rajasthan-301704.

7. Mohit Kaushik (Appointment)
Group 'A', Age about 25 years
S/o Sh. Surender Kaushik
R/o E-10, Gali No.2
Om Vihar Extn., Uttam Nagar
New Delhi-110059.
8. Narender Kumar (Appointment)
Group 'A', Age about 26 years
S/o Sh. Jagdish Chander
R/o VPO-Barwali, Teh-Nohar
Distt. Hanumangarh
Rajasthan-335504.
9. Naseeb Singh (Appointment)
Group 'A', Age about 33 years
S/o Sh. Rajkumar
R/o House No.1366, Urban Estate
Distt. Jind, Haryana, 126102
10. Shailendra Kumar Singh
Appointment, Group 'A'
Age about 35 years
S/o Sh. Ram Naval
R/o House No.B-34, Harbansh Road
Sidharipur, Gorakhnath Mandir
Distt. Gorakhpur, Utar Pradesh-273015
11. Paranthaman M, (Appointment)
Group 'A', Age about 28 years
S/o Sh. Munusamy
R/o 80/2, Lakshmi Nagar, 7th Street
Madipakkam, Chennai-600091.
12. Fazil Hassan P, Appointment, Group 'A'
Age about 29 years
S/o Sh. P. Muhammed Hassan
R/o New Padirikodan House
Murringappurayi
P.O-Mukkam, Distt. Kozhikode
Kerala-673602.

13. Akbar Ziyad PM, Appointment
Group 'A', Age about 30 years
S/o Sh. S. Balkees, R/o Puthupparambil
House, T.B. Road, Changanacherry
Distt. Kottayam, Kerala-686101.
14. Sushant Chopra (Appointment
Group 'A', Aged about 27 years
S/o Sh. Gulshan Rai Chopra
R/o Flat No.28, New Vindhyachal
Apartments, Plot No.-41, Sector-13
Rohini, Delhi-110085. ...Applicants

(By Advocate: Shri M.K. Bhardwaj)

Vs.

1. Union of India through its Secretary
Ministry of New & Renewable Energy
Govt. of India, CGO Complex
Block No.14, Lodhi Road
New Delhi.
2. The Joint Secretary (Admn.)
Ministry of New & Renewable Energy
Govt. of India, CGO Complex
Block No.14, Lodhi Road
New Delhi. ...Respondents

(By Advocate: Shri R.K. Sharma)

ORDER (ORAL)

Justice L. Narasimha Reddy:-

The Ministry of New and Renewable Energy initiated steps for appointment of 8 Scientist 'B', Group 'A' gazetted. Advertisement in this behalf was issued in March 2016. The essential and desirable qualifications were stipulated. It was mentioned that the written test

will be conducted in the process of selection. The applicants herein responded to the advertisement and took part in the written test also. All of them were shortlisted and were interviewed on 12th, 13th and 14.04.2014. After the interviews were concluded, the respondents issued a notice dated 18.04.2018 stating that the interview board did not find any candidate suitable for appointment as Scientist B. The applicants submitted a representation in this behalf. The same was replied through a letter dated 22.05.2018 almost in terms of the notice dated 18.04.2018. This OA is filed challenging the notice dated 18.04.2018 and the reply dated 22.05.2018.

2. The applicants seek a declaration to the effect that the action of the respondents in changing the procedure for selection half way through, is contrary to law and direction to the respondents, to select the candidates for the post of Scientist 'B' in accordance with the prescribed procedure.

3. The applicants contend that the written test was conducted to the extent of 85% and the interview was restricted to 15% of the evaluation. They submit that

the rejection of all the candidates just on the basis of the interview, is contrary to law and reliance is placed upon various judgments of the Hon'ble Supreme Court and the judgment of this Tribunal dated 18.09.2018 in OA No.2179/2014.

4. On behalf of the respondents a counter affidavit is filed. It is stated that the recruitment rules do not provide for conducting of any written test as a mandatory step and in the instant case, the written test was conducted only as a mechanism for short listing of the candidates. According to them, the Board of Interview evaluated the performance and capability of the candidates and on finding that none of them were up to the mark, issued the impugned notice dated 18.04.2018.

5. Reliance is placed by the respondents upon the judgment of the Hon'ble Supreme Court in ***Lt. CDR. M. Ramesh v. Union of India & Ors.*** 2018 (2) SC 97.

6. We heard Shri M.K. Bhardwaj, learned counsel for the applicants and Shri R.K. Sharma, learned counsel for the respondents.

7. The respondents intended to appoint 8 Scientist 'B' in the Ministry of New and Renewable Energy. The qualifications for that post were stipulated as under:-

“(ii) Educational Qualification:

(a) Essential:

Master's degree in Natural/Agricultural Science or Bachelor's Degree in Engineering/Technology/Medicine, from a recognized University or Institute.

(b) Desirable

(i) Specialized experience in Research & Development/ Industrial/Academic Institutions and/or Science and Technology Organization. This experience shall be of a specific nature relevant to the job requirements of the post.

(ii) Doctorate Degree in Natural or Agricultural Science or Master's Degree in engineering/Technology in the discipline/subject relevant to the job requirements.

4. The details relating to scale of pay, academic qualifications and experience, method of recruitment, date of examination, syllabus are also uploaded in the website of Ministry www.mnre.gov.in. No request for change of examination centre and date of exam will be considered under any circumstances.”

8. It was also mentioned in the advertisement that a written test will be conducted for the purpose. The applicants appeared in the written test and all of them were short listed for interview. However, the

respondents issued the impugned notice which reads as under:-

"The interview of 56 candidates shortlisted on the basis of written examination conducted on 15.5.2016 for the post of (08) Scientist 'B' in the Ministry of New and Renewable Energy were held from 11th-13th in the Conference Room (105), MNRE.

2. Out of total 56 candidates called for the Interview, 50 appeared before the Interview Board.

3. The Board did not find any candidate suitable for appointment as Scientist 'B' in the Ministry of New and Renewable Energy, keeping in mind the technical competence and preparedness required for the job."

9. The applicants are under the impression that the written test was held for 85 marks and the interview, for 15 marks, in the process of selection. On this premise, it is alleged that even if the candidates did not fare well in the interview, it was only a case for awarding relatively less marks and the selection process ought to have been completed by combining the marks secured in the written test and interview. They gained this impression on the basis of a reply given to an application filed under the Right to Information Act.

10. In case the Recruitment Rules provide for conducting a written test for 85 marks and holding of interview for 15 marks, the contention of the applicants can straightaway be accepted. However, the Recruitment Rules for the post of Scientist 'B' indicate something different. In the "Ministry of New and Renewable Energy Scientist Group 'A' posts Recruitment Rules 2015 (for short "the Rules"), the method of recruitment is stipulated in Rule 4. Sub rule (3) thereof, reads as under:-

"(3) Recruitment for the post of Scientist "B" shall be made by direct recruitment as specified in Schedule-I."

12. Therefore, one has to refer to Schedule I to know the procedure for selection. In Schedule-I, appended to the Rules, Clause 1 deals with the educational qualification, Clause 2 with the age limit and Clause 3 for screening and selection process. It reads as under:-

"3. Screening and selection process for direct recruitment. The screening and selection process shall be as prescribed by the Central Government. The composition of the Eligibility Committee, Screening-cum-Short Listing Committee and Interview Board shall be prescribed by the Central

Government. However, majority of the members in the Screening-cum-Short Listing Committee and Interview Board, including the Chairman shall be from outside the Ministry of New and Renewable Energy. If considered necessary, the screening process shall include a written test to be conducted by the Central Government directly or through any Central Government agency or organisation having experience and expertise in the area."

13. From a perusal of this, it becomes clear that the conducting of a written test is not a mandatory step and if at all it is held, it is only for the purpose of screening or short listing of the candidates. It has no direct relevance to the selection. The applicants and 42 others (total 56) were shortlisted on the basis of the performance in the written test. The Screening Committee, comprised of Chairman and five Members. The Minutes of the meeting held on 13.04.2018 reads as under:-

"4. Out of total 56 candidates called for the Interview, only 50 appeared before the Interview Board.

5. The Board did not find any candidate suitable for appointment as Scientist 'B' in the Ministry of New and Renewable Energy, keeping in mind the technical competence and preparedness required for the job. The Minutes of the Interview Board may kindly be seen at Flat F/'A'.

6. File is submitted for kind approval of Minutes/Decision of the Interview Board by the Hon'ble Minister."

14. The Interview Board did not find any candidate suitable for being appointed as Scientist 'B'. It is fairly well settled that the courts and Tribunals cannot sit in judgment over the findings recorded by the Interview Board, Screening Committee or Selection Committees.

15. Reliance is placed upon the Order of this Tribunal in OA No.2179/2014. That was a case in which the UPSC itself provided for holding of a written test and even marks were allocated for that. The UPSC changed the process at a subsequent stage. The judgment of the Hon'ble Supreme Court in **Ashok Kumar Yadav and Ors. vs. State of Haryana and Ors.** 1985 (4) SCC 147 and various other judgments of Hon'ble Supreme Court were taken note of and it was held that the procedure adopted by the UPSC was not in accordance with law. In the instant case, holding of written test was not a step in the process of selection at all. It was only confined to the one of short listing of candidates.

16. We do not find any merit in the OA. It is accordingly dismissed. There shall be no order as to costs.

(Mohd. Jamshed)
Member(A)

(Justice L. Narasimha Reddy)
Chairman

/vb/