

(2022) 06 CAT CK 0001

In the Central Administrative Tribunal

Case No : Transfer Application No. 1570 Of 2021 In Service Writ Petition No. 1929 Of 2016

Amit Pal Singh

APPELLANT

Vs

State Of J&K Through Commissioner/Secretary To Govt.
Technical Education/ Youth Services & Sports Department,
Civil Secretariat, Srinagar/ Jammu & Others

RESPONDENT

Date of Decision : 01-06-2022

Acts Referred:

Citation : (2022) 06 CAT CK 0001

Hon'ble Judges : Anand Mathur, Member A; D.S. Mahra, Member (J)

Bench : Division Bench

Advocate : Hilal Ahmed Wani, Bikram Deep Singh

Final Decision : Dismissed

Judgement

Anand Mathur, Member (A)

1. The applicant has filed the present O.A. for directing the respondents to appoint the applicant to the position of Physical Education Teacher which remained unfilled in terms of advertisement Notice No. 02 of 2013 dated 16.2.2013 from the date the other selected candidates have been appointed.

2. The brief facts of the case are that pursuant to advertisement Notice No. 2 of 2013 dated 16.2.2013, posts of Physical Education Teacher were notified in District Budgam. Applicant being eligible, applied for the post under RBA category. The respondent board had conducted a written examination in which the applicant claims to have been selected as per notification No. SSB/Sel/Secy/2014/2355-68 dated 13.12.2014 (Annexure A-2 to the O.A.), in which the applicant's name figured at Serial No. 20. In terms of the aforesaid advertisement notice, respondents have issued a selection list (Annexure A-3 to the O.A.), in which 10 candidates have been shown as selected in RBA Category and 3 candidates have been shown in the waiting list.

Thereafter, respondent No. 2 has issued another order dated 24.10.2016 (Annexure A-10 to the O.A.) in terms of which sanction /approval was given to appoint candidates who are in the waiting list. The applicant states that as per the information obtained by him through RTI, after joining of all the candidates, including those on the waiting list, there is still a vacancy available where the applicant can be accommodated as he is next in merit.

3. Learned counsel for the respondents has filed written statement in which it is stated that the petitioner had filed the SWP No. 1929/2016 before Hon'ble High Court seeking the directions against respondents to appoint the Petitioner to the post of PET which remained unfilled in terms of Advertisement No. 02 of 2013 dated 16.02.2013 from the date other selected candidates have been appointed.

4. That the petitioner had filed SWP No. 1929/2016 before the Hon'ble High Court to the post of PET, District Cadre Budgam advertised vide Notification No. 02 of 2013 dated 16.002.2013 under Item No. 165.

5. That the Petitioner during the selection process could not make the merit under RBA category as his merit was below the last selected candidate under RBA category. The petitioner is claiming his selection against unfilled vacancies after operating a waiting list. The Indenting Department vide Communication dated 20/02/2017 has intimated that "one post of PET, District Cadre Budgam under Item No. 165/RBA (02 of 2013) is available with the department due to the appointment of Shri Tariq Ahmad Dar in the selection zone at S.No. 01/RBA/Wait/165(02 of 2013)."

6. The Hon'ble High Court vide Order dated 8/12/2016 has been pleased to direct as under:

"Meanwhile, in case, out of 10 posts of physical Education Teacher under RBA category in District Budgam, any vacancy due to non joining of the selected candidates is unfilled, same be not filled up till next date of hearing before the Bench"

7. Thereafter matter was again listed before the Hon'ble High Court on 11/04/2018 and the Hon'ble High Court vide Order dated 11/04/2018 has been pleased to direct to direct as under:

"Pendency of the Writ Petition shall not form an impediment for the respondents in taking a decision in the matter in terms of Communication YSS/Estt/10615 dated 06.02.2017."

8. Learned counsel for the respondents stated that as has been clearly brought out all the candidates whose names appeared on the selection list as well as those on the waiting list have already been appointed. The applicant has not been called because his merit position in the RBA category was lower than the last person on the waiting list. Therefore, the applicant cannot make any claim for appointment.

9. This matter was listed for being spoken to on 31.05.2022 to clarify the details of the applicant because the waiting list carries the name of Shri Ameet Pal Singh son of Shri Trilok Singh which does not tally with the name of the applicant, which is Amit Pal Singh son of Shri Moti Singh. Learned counsel for the applicant clarified that Shri Ameet Pal Singh who was number 3 of the waiting list has already been appointed and the applicant is the next candidate as per his merit position.

10. Learned counsel for the respondents clarified that the name of the applicant does not figure in the selection list or even in the waiting list. Therefore, he has no locus-standi for claiming appointment. Furthermore, the validity of the waiting list is normally one year and in the instant case the waiting list has been fully exhausted. There is no rule / procedure as per which candidates lower in merit position after exhausting the waiting list have to be called for appointment. Therefore, the instant O.A. is liable to be dismissed on this count alone.

11. On hearing both the learned counsel, we find that the name of the applicant does not figure either on the selection list or on the waiting list. It is obvious that once both these lists have been exhausted, the selection process gets completed. Whenever a selection is conducted, the selection list is prepared to the extent of vacancies advertised in that notice. The purpose of the waiting list is to take care of such vacancies where the candidate selected in the selection list does not join the post but once the complete waiting list is also exhausted, the process of that particular selection comes to an end. In the instant case, the applicant's name does not appear even in the waiting list, hence, he has no claim whatsoever for appointment against the advertised posts.

12. In view of the above discussion, we find no merit in the O.A., which is accordingly dismissed.

13. No order as to costs.