

(2019) 03 CAT CK 0100

In the Central Administrative Tribunal

Case No : Original Application No. 3528 Of 2017 With Miscellaneous Application No. 3749 Of 2017

Ravi Raj

APPELLANT

Vs

Union Of India, Through Its Secretary And Other

RESPONDENT

Date of Decision : 15-03-2019

Acts Referred:

Citation : (2019) 03 CAT CK 0100

Hon'ble Judges : Nita Chowdhury, J;S.N. Terdal, J

Bench : Division Bench

Advocate : Ajesh Luthra, Hanu Bhaskar

Final Decision : Dismissed

Judgement

S.N.Terdal, J

1. We have heard Mr. Ajesh Luthra, counsel for applicants and Mr. Hanu Bhaskar, counsel for respondents, perused the pleadings and all the documents produced by both the parties.

2. In this OA, the applicants have prayed for the following reliefs:

"a) Direct the respondents to forthwith prepare, maintain and operate reserve panel/wait list towards the recruitment process conducted by way of Combined Higher Secondary Level (10+2) Examination-2015 and

b) Consider the applicants for their appointments by making appropriate recommendations to the various cadres of the Union in respect of which, CHSL-2015 was conducted and in accordance with the merit positions of the applicants.

c) Acord all consequential benefits

d) Award costs of the proceedings; and

e) Pass any other order/direction which this Hon'ble Tribunal deem fit and proper in favour of the applicants and against the respondents in the facts and circumstances of the case."

3. The relevant facts of the case are that the respondents conducted the Combined High Secondary Level (10+2) Examination in the year 2015. The applicants participated in the said recruitment process. The final result of the selection was declared on 28.08.2017 and the applicants being lower in merit could not find place in the merit list and that the respondent Staff Selection Commission had not prepared a reserve/waiting list. But, however, the averment of the applicants is that in case such a reserve/waiting list were to be prepared the applicants would have got chances of selection in the said recruitment process and they further averred that thousands of selected candidates whose names found place in the merit list were not available for joining as they were simultaneously selected for higher posts. The applicants have produced many documents to demonstrate that several candidates whose names was found place in the merit list dated 28.08.2017 did not join. On the above said averment, they prayed for the above said stated reliefs.

4. The counsel for the applicants vehemently and strenuously contended that as the applicants have appeared for the examination and have successfully undergone the entire selection process, by preparing a reserve/waiting list and filling up all the vacancies advertised taking into account those who did not join for various reasons, the respondents would have avoided the huge expenditure they incur in conducting of the recruitment process in selecting the candidates and he further submitted that various other recruiting agencies are following the policy of having reserve/waiting list. The counsel for the applicants brought to our notice the judgment passed by the Hon'ble High Court of Delhi on 5.03.2013 in the case of the Chairman, Delhi Subordinate Services Selection Board & Anr. Vs. Ms. Rajni & Ors (W.P(C) 2552/2012) wherein in a similar situation, the Hon'ble High Court directed another recruiting agency, namely, DSSSB to maintain reserve list, he further relied upon the following judgments passed by the Hon'ble Supreme Court, various High Courts and of the Tribunal:

(1) Miss Neelima Shangla, Ph.D.Candidate Vs. State of Haryana and Ors (1986 (2) ACALE 435.

(2) Union of India Vs. Shrey Bajaj and Anr (WP(C) 11739/2016(Delhi High Court)

(3) Ram Babu Koli Vs. Zila Parishad Sawai Madhopur (1999(4) SLR 599 (Raj)

(4) Pintoo Kumar Singh and Ors Vs. Union of India through its Secretary, Home Department and Ors

(Civil Writ Jurisdiction case No. 4545 of 2017 in the High Court of Judicature at Patna)

(5) OM No. 41019/18/97-Estt (B) of Ministry of Personnel, Public Grievances & Pensions dated 13.06.2000

(6) Shrey Bajaj Vs. SSC through Chairman and Ors (OA 620/2015-CAT (PB))

5. The respondents have filed counter affidavit stating that the number of vacancies filled by the Combined High Secondary Level (10+2) Examination is very large and the user departments are 42-45 in number and the finally selected candidates are nominated to the respective user departments and in such a situation getting data as to the candidates who have not joined and with respect to which user department would be a cumbersome exercise and in view of the preferences of the candidates the exercise would become more complex, as they do not have any policy of preparing reserve list. But, however, of late they are examining the feasibility of preparing and maintaining reserve list. The relevant portion of the averments made in counter affidavit is extracted below:

"6. That the Applicants are aggrieved by the non-preparation of the wait list/ reserve list by the Commission in respect of the impugned Examination. They have alleged that there are thousands of selected candidates in this Examination who have also been selected towards other selection process of higher posts and they will not be joining the lower posts of Higher Secondary Level. Therefore, thousands of vacancies relating to the impugned Examination shall remain unfilled despite availability of the candidates like the Applicants since no reserve list/wait list/reserve panel has been prepared by the SSC.

7. That it is most humbly submitted that the Commission conducts various open and departmental examinations for making recruit to Group 'B' (non-gazetted) and 'C' posts in the Ministries/Departments of Govt. of India. The number of vacancies filled by these examinations is also very large. Some of these examinations are combined examinations, i.e. recruitment to different types of posts requiring same minimum Essential Qualification (EQ) is made through one single examination. Combined Graduate Level Examination and Combined Higher Secondary Level Examination are two such examinations. At present, there is no policy to prepare a Reserve list/Panel by the Commission. However, issue regarding preparation of Reserve List is being examined in the Commission and if it is found feasible to maintain Reserve list for such combined examinations, the same will be applicably only with prospective effect.

8. That the Combined Higher Secondary Level Examination, 2015 was conducted for recruitment to the post of Data Entry Operator, Postal Assistant/Sorting Assistant and LDC in various Departments/Ministries of the Central Government. There were around 40-45 User Department that participated in the impugned examination. The final result of said examination was declared on 28.08.2017 and subsequently, all finally selected candidates were nominated to their respective User Departments in the month of September-October, 2017.

9. As per result Write-up dated 28.08.2017 of said Examination, a total of 9194 candidates were finally selected for their appointment in various User Departments based on merit-cum-preference exercised by them. The number of candidates selected for different posts is as under:

Sl.No.

Post

Finally selected

candidates

1.

Data Entry Operator

1003

2.

Postal Assistant/Sorting Assistant

5203

3.

Lower Division Clerk

2988

All these candidates have already been nominated to their respective User Departments. So, if any Reserve List for the above-stated Examination is drawn at this stage, it would result in shuffling of these candidates from one User Department to another subject to willingness of such candidates. The functioning of User Departments may get disturbed adversely, if such already nominated/appointed candidates of the impugned Examination are displaced from one User Department to the other. Moreover, vacancies arising due to non-joining of candidates will have to be collected from all the User Departments. This will require complete revision of results. Also, this entire process could consume a lot of time and energy of an already manpower deficit Commission. The future selection process is bound to be delayed if the Commission decides to prepare reserve list at this stage for the CHSL Examination, 2015. The Commission may not be able to make Recruitment as per schedule."

The counsel for the respondents in view of the averments extracted above submitted that if the respondents were to come out with the policy of preparing and maintaining reserve list that would only be applicable prospectively.

6. In view of the facts and circumstances of the case and particularly in view of the fact that with respect to the impugned recruitment process of 2015, there is no policy of maintaining reserve list in the respondent organization and in view of fact that they are in the process of examining preparation of reserve list, no relief can be given to the applicants of this OA. Accordingly, OA is dismissed. But, however, we direct the respondents to formulate the policy of preparing and maintaining reserve list as expeditiously as possible. No order as to costs.