

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17182 of 2019

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1. The Union of India through the Director General, Sports Authority of India, Jawaharlal Nehru Stadium Complex (East Gate), Lodhi Road, New Delhi.
 2. The Secretary, Sports Authority of India, Jawaharlal Nehru Stadium Complex (East Gate), Lodhi Road, New Delhi.
 3. The Director, Coaching and Personnel, Sports Authority of India, Jawaharlal Nehru Stadium Complex (East Gate), Lodhi Road, New Delhi.
 4. The In-charge, Sports Authority of India, Training Centre, Swarn Jayanti Chatrawas, Moinul Haque Stadium, Patna.

... .. Petitioner/s

Versus

1. Manish Chandra Roy Son of Sri Manohar Lal Resident of Mohalla- Mewa Kutri, Sabzibagh, P.S.- Pirmahore, District- Patna.
2. Balagopal B, Taekwondo Coach, Sports Authority of India, Lakshmi Bai National College of Physical Education, Kariavattom, Thiruvananthapuram, Kerala.
3. Suman Kumar Kollasety, Taekwondo Coach, Sports Authority of India, Special Area Game Centre, Mission Vengthlang, Aizawl, Mizoram.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Dr. Krishna Nandan Singh, ASG Mr. Bhupendra Kumar, Advocate Mr. Sujeet Kumar Singh, CGC
For the Respondent/s	:	Mr. Shekhar Singh, Advocate Mr. Sumit Kumar, Advocate Mr. Avinash Kumar Singh, Advocate Ms. Samren Saba, Advocate

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

Date : 11-04-2023

In the instant writ petition, Petitioners-Union of India and others have assailed the order of the Central Administrative Tribunal, Patna Bench, Patna (for short 'CAT') dated 29.03.2019 passed in OA/050/00784 of 2015.



2. Respondents-Manish Chandra Roy, Balagopal B and Mr. Suman Kumar Kollasety were candidates among others for recruitment to the post of Taekwando Coach, Sports Authority of India. 25 posts of Taekwando Coach were notified. The classification of reservation is as under:

“General Merit-12, OBC-05, SC-3 and ST-2 posts respectively.”

3. The initial advertisement was in the month of July-August 2011 while fixing the last date of submission of application as on 01.08.2011. Due to administrative reasons, the concerned petitioner proceeded to re-advertise the posts on 14.09.2012 while assigning the last date of submission of application as on 15.10.2012. In this regard, it is necessary to reproduce two Clauses of advertisement, which read as under:-

“NOTE : 1. The number of vacancies is provisional and may vary as per the requirement of SAI.

2. The advertisement published earlier in the Employment News of dated 30 July-05 August, 2011 for the post of Coach Grade-III stands cancelled. Candidates who had already applied with reference to the aforementioned advertisement need not apply afresh, as their candidature will be considered as per Terms & Conditions given in the earlier (30 July-07 Aug., 2011) advertisement, except selection procedure which will be as per present advertisement, except selection procedure which will be as



per present advertisement. However, if any applicant wants to withdraw due to change in recruitment process he/she can do so before the last date fixed for receipt of fresh applications and the fee deposited by such candidates would be refunded.

5.0 RELAXATION IN AGE LIMIT

- (a) (i) *Up-to a maximum of 10 years in case of departmental candidates.*
- (ii) *Personnel/ Candidates who are not regular employees of SAI, but have been engaged on Contract basis would be provided age relaxation for the entire period of their engagement on Contract basis in SAI plus three years, i.e., such person(s) shall be allowed to deduct the period of such service from his/her actual age and if the resultant age does not exceed the maximum age limit prescribed for the post by more than 3 years, he/she shall be deemed to satisfy the condition regarding age limit. They will have to meet the other qualifying conditions of education etc.*
- (b) *Up-to a maximum of 05 years in the case of SC/ ST Candidates.*
- (c) *Up-to a maximum of 03 years in the case of OBC candidates.*
- (d) *Up-to 05 years for persons who had ordinarily been domiciled in the State of Jammu and Kashmir during 01.01.1980 to 31.12.1989.*
- (e) *Up-to a maximum of 05 years in the case of ex-servicemen including Commissioned Officers and ECOs/SSCOs who have rendered at least 05 years Military Service as on 15.10.2012 and have been released (i) on completion of assignment (including those whose assignment is due to be completed by 15.10.2012) otherwise then by way of dismissal or discharge on account of misconduct or inefficiency, or (ii) on account of physical disability attributable to Military Service, or (iii) on invalidment.*
- (f) *Up-to a maximum of 05 years in the case of ECOs/SSCOs who have completed an initial period of assignment of*



five years Military Service as on 15.10.2012 and whose assignment has been extended beyond five years and in whose case the Ministry of Defence issues a certificate tht they can apply for civil employment and that they will be released on three months notice on selection from the date of receipt of offer of appointment.

- (g) Up-to a maximum of 05 years for employees working in Government Organizations.*
- (i) Up-to a maximum of 10 years in the case of SC/ST candidates serving as Govt. employees in accordance with the Govt. of India instructions. An applicant claiming age relaxation under this para should produce a certificate form his/her employer to the effect that he/she is a Govt. servant as on the date of advertisement.”*

4. Respondent-Manish Chandra Roy claimed his candidature under OBC category. Age relaxation provision has been cited supra. In terms of the age relaxation read with the contract work experience and other experience he was entitled to relaxation of age, entire period of the contract service plus three years. The first respondent surrendered his right to claim his candidature under OBC Category. He had the cause of action insofar as claiming under General Merit Category with reference to his age and number of years of contract service plus three years age relaxation with reference to last date of submission of application as on 01.08.2011 in terms of the first advertisement issued in the month of July-August, 2011. In this regard, we have perused the record and eligibility list of written examination, in which, the petitioner's name appears at Serial



No. 17. Therefore, one has to draw inference that he was well aware that he was treated as one of eligible candidates under OBC category to write the written examination. Further, the petitioner published select list and so also wait list. The petitioner's name has been incorporated under wait list under OBC category. Even on that occasion there was a cause of action for him so as to claim that his candidature is required to be considered under General Merit Category instead of OBC Category. He has slept over the matter till wait list was operated. He has opened his eyes to claim his candidature under General Merit Category only as and when two of the General Category candidates failed to report for duty and thereafter, the petitioner operated wait list of General Category to fill up the unfilled vacancies (not reported). At that stage, Respondent-Manish Chandra Roy realized that his name should have been considered under General Merit Category, hence, he has filed Original Application before the CAT after collecting information through Right to Information Act and other materials. In the Original Application before the CAT, the petitioner has prayed for the following relief(s):-

“8.01. In the facts and circumstances of the case this Hon'ble Court may kindly be pleased to call for the final panel/order whereby the respondent no. 5 and 6 have been included for appointment and



to direct the respondent authorities to revise the panel/final merit list of Assistant Coach selected in Taekwondo discipline in pursuant to the notification published by Sports Authority of India (hereinafter referred to as SAI) in Employment News (08-14 September, 2012) regarding appointment of Assistant Coaches by placing those candidates of OBC category to general category who have secured more marks than the General Candidates and consequently to place the applicant in the list of final merit list of OBC Category in stead of waiting list.

8.02. *For a direction to the respondent authorities to appoint the applicant on the post of Assistant Coach Taekwondo in pursuant to the notification published by Sports Authority of India (hereinafter referred to as SAI) in Employment News (08-14 September, 2012) with effect from the date others have been appointed in view of the fact that those candidates who are having lesser marks than the applicant have been offered appointment.*

8.03. *For other relief/s for which the applicant is entitled.”*

5. Perusal of the relief shows the petitioner has not questioned incorporating his name under OBC Category (wait list) and further seeking to incorporate his name under General Merit Category with reference to contract service read with age relaxation cited supra. It is to be noted that even Respondent No. 1-Manish Chandra Roy has not questioned the selection and appointment of the private respondents Shri Balagopal B and Shri Suman Kumar Kollasety. In the absence of challenge to the select list and appointment of private respondents, the CAT has committed glaring error. The CAT should have rejected the



Original Application insofar as not questioning the validity of the select list, in which, petitioner has been identified as an OBC Category candidate and further appointment of Respondent Nos. 2 and 3. The CAT cannot give directions to the Executive Authorities to create a supernumerary post and to accommodate first respondent.

6. No doubt the petitioner may be having case on merit insofar as counting number of years of service for the purpose of age relaxation and to place him under General Merit Category. However, he has failed to take appropriate steps insofar as challenging the select list and order of the appointment issued to the contesting respondents. On the other hand, he has only sought for revision of panel and final merit list for the post of Assistant Taekwondo Coach. If such revised list is required to be prepared, in that event, such of those names which are reflected in the final select list, their rights would be affected and they have not been impleaded as necessary and proper parties to the Original Application. On technicality, first respondent has not made out a case so as to grant relief(s) sought in the Original Application. The CAT has committed error in entertaining the Original Application in the absence of challenge to the final select list and so also in not challenging



the order of appointment of the contesting Respondents-Shri Balagopal B. and Shri Suman Kumar Kollasety.

7. In view of these facts and circumstances, the petitioners have made out a case, so as to interfere with the order of the CAT dated 29.03.2019 passed in OA/050/00784 of 2015 and it is set aside.

8. Accordingly, the writ petition stands allowed while rejecting the Original Application filed by the first respondent.

9. Pending Interlocutory Application/s, if any, stands disposed of.

(P. B. Bajanthri, J)

(Arun Kumar Jha, J)

Ashish/
Himanshu/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	18.04.2023
Transmission Date	NA

