



2026:DHC:2880-DB



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 2490/2017 & CM APPL. 10768/2017

UNION OF INDIA & ORSPetitioners

Through: Mr. Tanmay Vashistha and Mr.
Amit Anand, Advs.

versus

HEMLATARespondent

Through: Mr. A.K. Trivedi, Adv.

CORAM:

HON'BLE MR. JUSTICE C. HARI SHANKAR

HON'BLE MR. JUSTICE OM PRAKASH SHUKLA

JUDGMENT (ORAL)

% **06.04.2026**

C. HARI SHANKAR, J.

1. This writ petition is directed against judgment dated 12 May 2016 passed by the Central Administrative Tribunal¹ in OA 2675/2014.

2. The *lis* emanates out of an advertisement, issued by the petitioners, inviting applications for filling 93 vacancies of the post of Telecom Mechanic at 509 Army Base Workshop EME, Agra. 47 vacancies were unreserved, 14 were reserved for Scheduled Castes, 7 for Scheduled Tribes and 25 for Other Backward Classes. The respondent applied as a General Category candidate. She appeared in the written examination, in which she was declared successful. She

¹ "Tribunal" hereinafter



was, thereafter, called for practical examination and interview which, too, she attended.

3. In the select list of candidates which were announced thereafter, 39 candidates belonged to the unreserved category. The respondent was at Sl. No. 1 of the reserve list of general category candidates.

4. The Tribunal has, in the judgment under challenge, noted that the reserved list was maintained in terms of policy decision taken by the Adjutant General's Branch, integrated Headquarters of the Army, *vide* letter dated 21 May 2007, and was intended to cater to a situation in which a candidate appointed against a vacancy did not join or resign within one year of joining.

5. It is not in dispute that, on 1 April 2013, one Mr. Robin Kumar Potlia expressed unwillingness to join.

6. By operation of the Adjutant General's letter dated 21 May 2007, in terms whereof the reserved list had been prepared, the respondent's contention before the Tribunal was that she acquired an indefeasible right to be appointed.

7. The factual position is not disputed by the petitioner.

8. The petitioner's only case, as pleaded before the Tribunal and before us, is that two days after 1 April 2013 when Mr. Potlia expressed unwillingness to accept the offer of appointment, there was a direction by the Army Headquarters suspending further recruitments.



In view thereof, it was submitted by the petitioner before the Tribunal, and before us, that the respondent could not be appointed.

9. The Tribunal has not accepted this submission and has allowed the OA of the respondent in the following terms:

“10. The respondents have not produced before this Tribunal the Ministry of Defence's letter dated 28.8.2009, *ibid*, regarding bifurcation of HS workers in the ratio of 50:50. They have also not produced before this Tribunal any material to show that as a consequence of bifurcation and/or revision of the cadre structure, 65 Telecom Mechanics (HS-II) were rendered surplus. They have also not produced the letter dated 3.4.2013 purportedly issued by the Headquarters Base Workshop Group. In their counter reply, the respondents have also not shown any reason as to why > they initiated the recruitment process in December 2011 to fill 93 vacancies in the post of Telecom Mechanic and completed the recruitment process by selecting and issuing offers of appointment to 93 selected candidates which included 39 General category candidates, besides preparing Reserve Lists for different categories, if at all, according to them, 65 Telecom Mechanics (HS-II) were rendered surplus in the year 2009, i.e., much prior to initiation of the recruitment process in question. Thus, we are not inclined to accept the stand taken by the respondents in support of their case. In view of the admitted facts that the applicant's name appeared at Sl.No.1 of the Reserve List for General category, that one General category candidate did not accept. the offer of appointment, and that one out of 39 vacancies for General category remained unfilled, we do not find any substance in the contention of the respondents that the applicant cannot claim appointment as a matter of right. In our considered view, the respondents were bound to give effect to the Reserve List for General category by issuing the offer of appointment to the applicant when one of the 39 vacancies for General category remained unfilled on account of non-acceptance of the offer of appointment by one General category candidate.

11.1 In the instant case, the respondents initiated and completed the recruitment process for filling the notified vacancies in the post of Telecom Mechanic on regular basis. The selection of the candidates was not made under the Apprentices Act, 1961. The applicant succeeded in the prescribed recruitment test, and her



name was placed at Sl.No.1 of the Reserve List for General category candidate. The said Reserve List was prepared by the respondents as per their own policy decision for taking care of the eventuality of occurrence of any vacancy caused by any selected candidate not joining and/or not accepting the offer of appointment. Thus, by preparing the Reserve List, the respondents held out promises to the candidates named therein that in the event of occurrence of vacancies for the reasons mentioned in the policy decision, they would be issued offers of appointment. When admittedly one General category candidate expressed his unwillingness to accept the offer of appointment, the respondents, being bound by their own policy decision, had to issue the offer of appointment to the applicant who was placed at Sl.no.1 of the Reserve List for General category. Thus, the respondents cannot be allowed to take the plea that the applicant had no right to claim appointment. In this view of the matter, the decision in *Mitrangshu Roy Choudhary v. Union of India & others*² (supra), besides being distinguishable on facts, is of no help to the case of the respondents.

13. In the light of our above discussions, we have no hesitation in holding that the action of the respondents in not issuing the offer of appointment to the applicant is illegal and arbitrary. Accordingly, we direct the respondents to issue letter/offer appointing the applicant to the post of Telecom Mechanic within a period of three months from today.”

10. Aggrieved by the aforesaid decision, the UOI has filed the present writ petition. We have heard Mr. Tanmay Vashistha, learned Counsel who appears on behalf of Mr. Amit Anand for the UOI and Mr. Trivedi, learned Counsel for the respondent.

11. Mr. Vashistha has placed reliance on a judgment of a Coordinate Bench of this Court authored by one of us (C. Hari Shankar, J.) in *Shashi Bhushan v. University of Delhi*³ and on the well-known decision of the Supreme Court in *Shankarsan Dash v.*

² (1999) 3 SCC 649

³ 2025 SCC OnLine Del 1319



*UOI*⁴.

12. These decisions, to our mind, do not advance the case that the UOI seeks to propound. There is no doubt that there is no indefeasible right in law to a candidate in a reserve list to be appointed against an unfilled vacancy. However, *in the present case, the instructions under which the reserve list was prepared specifically envisaged filling up of the posts which remained unfilled because of non-joining by a selected candidate or resign by a candidate who was appointed, from the candidates in the reserve list. There is also no dispute that the respondent was the first candidate in the reserve list.*

13. We are clear in our mind that the instruction by the Army Headquarters dated 3 April 2013 could not operate to defeat the right of the respondent which arose in terms of the advertisement read with the instructions dated 21 May 2007 of the Adjutant General whereunder the reserve list was prepared. At the highest, it could only operate prospectively.

14. We, therefore, do not find any error in the decision of the Tribunal to direct appointment of the respondent, if otherwise suitable, as the first candidate in the reserve list.

15. The writ petition is devoid of merits and is accordingly dismissed.

⁴ (1991) 3 SCC 47



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16. Compliance with the impugned order be ensured within a period of 12 weeks from today.

C. HARI SHANKAR, J.

OM PRAKASH SHUKLA, J.

APRIL 6, 2026/AR