

IN THE ARMED FORCES TRIBUNAL, PRINCIPAL BENCH AT NEW DELHI

13.

O.A. No. 207 of 2011

Corporal Mahipal Kumar

.....Petitioner

Versus

Union of India & Ors.

.....Respondents

For petitioner: Mr. Shiv Kant Pandey, Advocate.  
For respondents: Mr. Ajai Bhalla, Advocate.

CORAM:

HON'BLE MR. JUSTICE A.K. MATHUR, CHAIRPERSON.  
HON'BLE LT. GEN. Z.U. SHAH, MEMBER.

ORDER  
01.12.2011

1. Petitioner by this petition has prayed that the order dated 18<sup>th</sup> April 2011 (Annexure A-1) passed by Respondent No. 4 may be quashed being violative of Articles 14 and 21 of the Constitution of India. He also prayed that the Respondents may be directed to issue No Objection Certificate to Petitioner forthwith and allow him to join as Probationary Officer (PO) in the Bank of India.

2. Petitioner was inducted in the Indian Air Force as an Airman on 16<sup>th</sup> June 2003 and with the passage of time he was promoted to the rank of Corporal in June 2008. Meanwhile the post of Probationary Officer in the Bank of India was advertised on 7<sup>th</sup> August 2010 and in pursuance of that Petitioner applied and his application was duly forwarded by order dated 23<sup>rd</sup> August 2010 by Commanding Officer. Petitioner thereafter has undergone a written test for the post of Probationary Officer and he was called for interview on 15<sup>th</sup> March 2011. Thereafter he made another application before the

Station Commander to issue No Objection Certificate and same was duly considered by Station Commander 47 SU and he strongly recommended the case of Petitioner to Respondents 2 and 3. Thereafter Petitioner appeared on interview on 15<sup>th</sup> march 2011 and he was successful and final result was published by Respondent No. 5 i.e. Bank of India. Thereafter on 18<sup>th</sup> April 2011 he moved an application for release to join his new post which was rejected by the Respondents vide Annexure A-10. The rejection order says that Petitioner's services cannot be spared and No Objection Certificate cannot be granted to him because of the exigency of services. Thereafter Petitioner filed the present petition before us instead of filing a statutory representation.

3. A reply has been filed by the Respondents and Respondents have pointed out in the reply that since post for which Petitioner was selected did not carry the pay scale of Rs. 39,100/- and as such he cannot be granted No Objection Certificate.

4. A similar question has come up before us in the case of **Cpl. Rakesh Kumar Suman v. Union of India & Ors. (O.A. No. 158 of 2011 decided on 11<sup>th</sup> November 2011)** in that we examined all the relevant Air Force orders and provisions and after considering over the matter we rejected the petition on the ground that as per the Government notification dated 22<sup>nd</sup> May 2009 which clearly says that the person should be permitted to apply for Group-A and equivalent post and the maximum pay scale should not be less than Rs. 39,100. The pay scale of the present post for which Petitioner has applied carries the pay scale of Rs. 14,500-25,700. Though it can go up by time scale

promotion up to Rs. 40,400 but the fact remains that as per the Government notification dated 22<sup>nd</sup> May 2009 the person can only be permitted to Group-A post or equivalent which should carry the pay scale of Rs. 39,100/- and in the present case the post for which Petitioner has applied only carries the pay scale of Rs. 14,500-25,700. Therefore the Respondents have declined to grant No Objection Certificate to the Petitioner and this action of Respondents has been already upheld by us in the case of **Cpl. Rakesh Kumar Suman v. Union of India & Ors.**). Consequently, we dismiss this petition with no order as to costs.

**A.K. MATHUR**  
(Chairperson)

**Z.U. SHAH**  
(Member)

New Delhi  
December 01, 2011  
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