



2026:DHC:5230-DB



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

Judgment reserved on: 21.04.2026
Judgment pronounced on: 01.07.2026

+ W.P.(C) 12661/2019, CM APPL. 51712/2019 & CM APPL. 14905/2021

SUBEDAR MAJOR ASHOK
KUMAR VERMA (RETD)Petitioner
Through: Mr. Yudhvir Singh Chauhan, Adv.

versus

MINISTRY OF DEFENCE & ANRRespondents
Through: Mr. Rajesh Gogna, Ms. Rebina Rai, Ms. Hibu B. Monio, Ms. Punita Jha and Mr. Shivam Tiwari, Advs.

CORAM:
HON'BLE MR. JUSTICE C.HARI SHANKAR
HON'BLE MR. JUSTICE OM PRAKASH SHUKLA

JUDGMENT
01.07.2026

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OM PRAKASH SHUKLA, J.

1. The present petition assails the order dated 18.11.2019 passed by the Central Administrative Tribunal, Principal Bench, New Delhi¹ in O.A². No. 3283/2019, wherein the Petitioner's O.A. for appointment to the post of Civilian Assistant Security Officer³ was dismissed.

2. The Petitioner is a retired Junior Commissioned Officer⁴ of the

¹ "CAT"/ "Tribunal", hereinafter

² "O.A" means Original Application

³ "CASO", hereinafter

⁴ "JCO", hereinafter



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Indian Army, who superannuated on 31.12.2016, at approximately 52 years of age.

3. The Respondents *vide* notification dated 03.03.2016, invited applications for filling three (03) posts of CASO, a General Central Service Group 'B' Gazetted, Non-Ministerial post under the Directorate General of Quality Assurance (DGQA), Ministry of Defence⁵ to be filled on deputation/re-employment basis. This notification specifically mentioned that applicants should be Armed Forces personnel of the rank of JCO or equivalent, having less than one year of service left or those to be transferred to the reserve within one year. Furthermore, it stipulated that if selected before retirement, such personnel would be continued on re-employment terms upon release from service.

4. The eligibility conditions also specified that the maximum age for appointment on deputation would not exceed 56 years as of the closing date for receipt of applications, and that the appointment would be governed strictly in accordance with the applicable Recruitment Rules.

5. Pursuant to the said notification, the Petitioner applied for the post of CASO. Subsequently, the Petitioner was called for an interview *vide* communication dated 02.05.2018, and appeared before the Selection Committee on 15.05.2018, which was chaired by the Joint Secretary (Army)⁶.

⁵ "MoD", hereinafter

⁶ "JS(Army)" hereinafter



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6. Upon completion of the selection process, records reveal that three candidates were selected, including the Petitioner. The records further indicate that marks were duly awarded, with the Petitioner securing the highest marks among all selected candidates.

7. The record reflects that the MoD obtained the approval of the Additional Secretary for the constitution of the Selection Committee for recruitment to the post of CASO.

8. Following the completion of the selection process, the case was forwarded by MoD (Movement) to MoD (Appointments) for further necessary action, including the issuance of an offer of appointment to the selected candidates.

9. The MoD (Appointments) returned the file, pointing out that pre-appointment formalities, such as medical examination, police verification, and verification of educational and experience certificates of the three recommended candidates, were required to be completed by the MoD.

10. Upon receipt of the file, MoD sought clarification from Appointments Section regarding the competent authority for the acceptance of the recommendations made by the Selection Committee.

11. In response, MoD (Appointments), *vide* their note 81/ante, referring to Part III of Office Memorandum (OM) No. 34(15)/96-07M dated 17.05.1996, clarified that matters relating to appointment to Group 'B' posts are ordinarily to be disposed of at the level of the Joint



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Secretary (JS) of the concerned wing. The note further indicated that since the Selection Committee had been chaired by the JS (Army), it may be necessary to obtain approval at a higher level, such as the Additional Secretary, for the acceptance of the recommendations.

12. Acting upon the said clarification, MoD submitted the file for approval by the Additional Secretary. However, the Additional Secretary observed that the “competent authority cannot be altered on the basis of suggestions” and directed that the relevant rules and provisions governing the determination of the competent authority be placed on record.

13. Subsequently, it was noted that, as per the Recruitment Rules, the JS (Army) was the appointing authority for the post of CASO. However, considering that the JS (Army) had chaired the Selection Committee, a question arose as to whether the same authority could both recommend and approve the selection.

14. MoD(Appointments) reiterated that there was no express rule mandating approval by a higher authority in such circumstances, though it was administratively suggested that approval may be sought at a level above the Chairperson of the Selection Committee.

15. Consequently, the Additional Secretary concluded that the JS (Army) was the competent authority under the applicable framework to approve the recommendations of the Selection Committee, and the file was accordingly placed before JS(Army) for final consideration.



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16. It is evident from the record that the issue regarding the identification of the competent authority remained unresolved from May 2018 to February 2019, during which period the file continued to circulate between the concerned departments without finality.

17. In this background the JS(Army), upon considering the matter, recorded the following on 27.02.2019:

“In view of the time elapsed in the instant case, it would be preferable to start the process afresh, ab initio.

Accordingly, we may not proceed in the instant matter and initiate action afresh in a transparent manner by giving wide publicity and equal opportunity to all potential candidates.”

18. As a result, the decision to cancel the said vacancy was published in Employment News 14-20 September 2019. The same has been reproduced herewith for reference :

“Employment News 14-20 September 2019
No. 15(06)/CASO/2019-D(Mov)
Government of India
Ministry of Defence
1 D(Mov)

RECRUITMENT CANCELLATION NOTICE

This has reference to the recruitment advertisement for the post of **Civilian Assistant Security Officer** published in the Employment News dated 02-08 April 2016, The aforesaid recruitment process stands cancelled due to administrative reasons.

1023/11/0008/1920

EN 24/62”

19. Consequent to the aforesaid decision, the recruitment process initiated under the notification dated 03.03.2016 was cancelled, and steps were taken to initiate a fresh recruitment process. A fresh vacancy circular for the same post was thereafter published.



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20. The Petitioner, upon seeking information through a Right to Information⁷ application dated 18.03.2019, was informed, *vide* letter dated 23.04.2019, that the recruitment process for the post of CASO had been cancelled by the competent authority.

21. Aggrieved by the cancellation, the Petitioner made further representations under the RTI Act and obtained documents which revealed that the selection process had been duly conducted and finalized, but was annulled on administrative grounds.

22. Consequently, the petitioner approached the CAT challenging the cancellation of the earlier recruitment process and the issuance of the fresh notification.

23. The Tribunal, upon considering the record, observed that although the selection process had progressed substantially, there existed uncertainty within the administrative process, particularly regarding the identification of the competent authority for approval of the Selection Committee's recommendations.

24. The Tribunal further held that such administrative decision to cancel the earlier process and restart the recruitment could not be interfered with, particularly in view of the delay and the circumstances surrounding the decision-making process.

⁷ "RTI" hereinafter



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25. It was held that, although the Petitioner had participated in the selection process and had been selected, he did not acquire a “vested right” to appointment merely on that basis.

26. On the above reasoning, the Tribunal concluded that no case for interference was made out and accordingly dismissed the O.A. Aggrieved by the dismissal, the Petitioner has now approached this Court by way of the present writ petition.

SUBMISSIONS BEFORE THIS COURT

27. Learned Counsel for the Petitioner, Mr. Yudhvir Singh Chauhan, submitted that the Tribunal erred in dismissing the O.A. in *limine*, without issuing notice to the Respondents. It was contended that the CAT’S reliance on *Shankarsan Dash v. Union of India*⁸ to deny all relief was erroneous, especially when the CAT itself acknowledged that the Petitioner had a “legitimate expectation” of being appointed. This expectation was verbally confirmed but an Under Secretary of MoD, and the Petitioner had, in reliance on this confirmation, forfeited other employment opportunities.

28. Further, the learned Counsel submitted that the Petitioner cannot be made to suffer for the administrative negligence of the Respondents. The Petitioner had appeared in the interview in good faith, and the entire selection process had been duly completed. Applications were invited, candidates were shortlisted, interviews were conducted, and a final

⁸ (1991)3 SCC 47



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merit list was prepared, wherein the Petitioner secured the highest marks by a substantial margin. In support of this submission, reliance was placed on *S.L. Kapoor v. Jagmohan*⁹ to contend that procedural lapses or omissions on the part of the State cannot be foisted upon an aspirant who has fulfilled all requirements.

29. Finally the learned Counsel contended that the fresh vacancy circular issued, which requires candidates to be “in service” or to apply “through the Commanding Officer”, is *ultra vires* the Recruitment Rules¹⁰ and cannot override the statutory framework.

30. It was further submitted that the fresh vacancy circular issued in September 2019 is, in all material respects, *ad verbatim* identical to the earlier circular dated 03.03.2016, including the eligibility criteria, qualifications, and experience requirements. The issuance of a fresh notification, without any substantive alteration in the criteria, clearly demonstrates non-application of mind and an arbitrary exercise of power.

31. In light of the above submissions, the learned Counsel prayed that the order passed by the CAT be set aside, and the cancellation notification/notice published in Employment News for the period 14-20 September 2019, along with the order/noting of the JS (Army) dated 27.02.2019, whereby a fresh recruitment process was ordered to be initiated, be quashed.

⁹ (1981) 1 SCC 622

¹⁰ Army and Directorate General Quality Assurance (Civilian Assistant Security Officers) Recruitment Rules, 2010



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32. *Per Contra*, learned Counsel for the Respondents, Mr. Rajesh Gogna, submitted that the recruitment process for filling the three posts of CASO was validly cancelled by the Competent Authority on administrative grounds.

33. It was further submitted that once the recruitment process was cancelled, the entire selection process, including any merit list prepared thereunder, ceased to have any legal effect. No candidate, including the Petitioner, can claim any right arising from a process that has been lawfully annulled.

34. The learned Counsel also emphasized that a cancellation notice was duly published, thereby ensuring transparency and providing public notice of the decision. Consequently, the selections made under the earlier process cannot be treated as subsisting or enforceable in law.

35. Further, the learned Counsel submitted that the eligibility criteria for application to the post of CASO, as provided under the Recruitment Rules, clearly stipulate that eligible candidates must either be in service or within one year period from the date of retirement. In the present case, the Petitioner retired from service on 31.12.2016, and thus does not fall within the prescribed eligibility window under the Rules at the time of the fresh recruitment process. Therefore, the Petitioner fails to satisfy the essential eligibility criteria and is consequently disentitled from participating in the fresh recruitment process.



FINDINGS AND ANALYSIS

36. Having heard learned counsel for the parties and perused the material on record, it is undisputed that the Petitioner participated in the selection process and was placed first in the order of merit. However, it is equally undisputed that no appointment order was issued in favour of the Petitioner or any other candidate.

37. The legal position in this regard is well settled. In *Shankarsan Dash (supra)*, the Supreme Court held that inclusion in a select list does not confer any indefeasible right to appointment, and the State is not bound to fill the vacancies. The mere inclusion of a candidate in a select list does not create a right to be appointed.

38. This principle has been consistently reaffirmed in a catena of decisions. In *Employees State Insurance Corporation v. Dr. Vinay Kumar*¹¹, the Supreme Court reiterated the cardinal principle that, in the case of direct recruitment, a candidate who has applied does not have a legal right to insist that the recruitment process be carried to its logical end. Even inclusion in the select list may not confirm such a right. However, this is distinguishable from holding that the employer is free to act in an arbitrary manner.

39. It is also settled law that appointment can never be claimed as a matter of right and must conform to the constitutional mandate of equality and the applicable recruitment rules. An appointment can only

¹¹ (2022) 18 SCC 358



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be made in accordance with the statutory provisions governing recruitment and the applicable legal framework.

40. In the present case, the selection process did not culminate in the issuance of any appointment order. As such, the Petitioner cannot claim any vested or enforceable right to appointment. The absence of a formal appointment order renders the claim of the Petitioner legally untenable.

41. The materials on record reveal that the recruitment process remained pending for a substantial period owing to administrative uncertainty concerning the identification of the competent authority for approval of the Selection Committee's recommendations. The delay in finalizing the process is evident from the movement of the file between various departments, including MoD (Movement), MoD (Appointments), the office of the JS(Army), and the Additional Secretary, all reflecting divergent views on the issue of competence.

42. Ultimately, on 27.02.2019, the JS (Army) recorded that, in view of the time elapsed, it would be preferable to start the process afresh, *ab initio*, to ensure transparency and equal opportunity. This formed the basis for the cancellation of the recruitment process, which was initiated in March 2016 but remained inconclusive for nearly three years.

43. This decision cannot be deemed arbitrary or biased. The recruitment process, initiated in March 2016, had remained unresolved for a prolong period, and such a delay can legitimately justify the reconsideration of the process itself. Prolonged administrative delays may call for a fresh start to ensure that the recruitment process is



conducted in a fair, transparent, and efficient manner.

44. In *State of Haryana v. Subash Chander Marwaha*¹², the Supreme Court held that the State is not bound to fill vacancies even after the preparation of a select list and may decide not to proceed further for valid reasons, including administrative or policy considerations. This principle applies squarely to the present case, where administrative uncertainty and delays played a pivotal role in the decision to cancel the process.

45. More recently, in *State of Assam v. Arabinda Rabha*¹³, the Supreme Court upheld the cancellation of a recruitment process and reiterated that the Government retains the discretion to annul a selection where it forms a *bona fide* view that cancellation is necessary to ensure fairness and integrity in public employment. The decision to cancel the recruitment process in the present case aligns with this principle.

46. Thus, it can be concluded that the Selection Committee possesses the authority to cancel a recruitment process, provided that the decision is made *bona fide* and not tainted by *mala fide* intentions. In this case, the cancellation was based on administrative considerations such as delay and procedural uncertainty, rather than allegations of irregularity or *mala fide* actions.

47. It is also significant to note that the Respondents did not abandon the recruitment process altogether. A fresh notification was issued in

¹² (1974) 3 SCC 220

¹³ 2025 SCC OnLine SC 523



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September 2019 for the same posts, with substantially identical eligibility conditions. The issuance of the fresh notification reflects the Respondents' intention to proceed with the recruitment process in a fair and transparent manner, in accordance with the applicable rules.

48. The issuance of a subsequent advertisement, with identical eligibility criteria, demonstrates that the Respondents did not seek to arbitrarily deny appointment but rather aimed to restart the recruitment process afresh, taking into account the prolonged delay and administrative issues that has arisen. The decision to restart the recruitment process is a matter of administrative policy and cannot, by itself, be deemed arbitrary.

49. The Petitioner has invoked the doctrine of legitimate expectation, relying on his selection and an alleged verbal assurance. While a candidate may have an expectation of fair consideration, such an expectation does not crystallise into an enforceable right to appointment. The Court must balance individual expectations against the larger requirement of ensuring fairness and integrity in public recruitment. Mere participation in the selection process, or even being selected, does not confer an enforceable right to appointment.

50. The alleged verbal assurance, in the absence of a formal appointment order, cannot override the settled legal position. The law consistently holds that only a formal offer of appointment, in accordance with the applicable recruitment rules, confers any legal right to appointment.



51. Moreover the Courts are not bound to interfere with administrative decisions in public recruitment processes, unless it is shown to be arbitrary, *mala fide*, or based on extraneous considerations. In this regard Para 39 of ***Arabinda Rabha*** (supra) merits reproduction:

*39. It cannot be gainsaid that the factors of “when”, “which”, “what”, “who” and “how” that are associated with a recruitment/selection process is the prerogative of the recruiting authority and the selectors; however, at the same time, the process has to be conducted consistent with statutory provisions governing the same, if any, as well as principles of absolute fairness and complete non-arbitrariness. Though it is true that the law does not postulate a fetter on the authority of the employer State and it is within the domain of the Government when to initiate a process of recruitment for public employment, either according to recruitment rules or even in the absence thereof, it is for the Government of the day to decide in which manner it proposes to conduct selection, what would be the various stages the candidates aspiring for appointment have to pass through in order to be placed in the select list, who would be the selectors, and how weightage is to be given to each of the testing methods, a great deal of credence is lent to a process if it is fairly and transparently conducted in accordance with rules, whatever be its source, without the slightest hint of any bias or favouritism or nepotism. Normally, it is not for the courts to interfere unless the process smacks of *mala fides*. However, the right to be considered for public employment being a fundamental right, it would be safe and prudent to have recruitment rules to govern the process of selection so that the best possible talent is appointed in public service. Obviously, assessing the merit of the candidates aspiring for public employment on the basis of a prescribed standard would not only provide a level playing field for each of them, the excellence of any institution to which the appointment is to be made would depend directly on the proficiency of its members/staff and that would, in turn, depend on the quality and merit of those who offer themselves for selection and ultimately get selected, necessitating the selection to be conducted without any hidden taint or masked *mala fides*. Last but not the least, having regard to present times when corruption has been held to be a walk of life by certain responsible citizens of the country, it would have been desirable if the process of recruitment of 104 Constables were conducted after framing of recruitment rules and also prescribing a written examination to keep the process absolutely above board.”*

52. In the present case, the decision to cancel the recruitment process



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is supported by discernible reasons, taken at the appropriate level, and followed by the issuance of a fresh notification. No *mala fides* or arbitrariness has been alleged by the Petitioner, nor has it been demonstrated.

53. Thus, in view of the foregoing discussion, this Court records the following findings:

- i. The Petitioner did not acquire any vested or enforceable right to appointment in the absence of the issuance of an appointment order;
- ii. The Respondents possessed the authority to cancel the recruitment process for valid administrative reasons;
- iii. The cancellation was based on relevant considerations, including the lapse of time and administrative uncertainty, and is neither arbitrary nor mala fide;
- iv. The issuance of a fresh notification demonstrates that the decision was taken to ensure fairness and transparency in public recruitment;
- v. The impugned order of CAT does not suffer from any illegality or perversity warranting interference.

54. This Court is mindful of the fact that the Petitioner, having participated in the selection process and having topped the merit list, would have legitimately expected that the process would culminate in



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an appointment. It is indeed unfortunate that despite having undergone the rigours of selection, the Petitioner could not be appointed on account of the subsequent administrative decision to cancel the recruitment process. However, where the competent authority, for valid and *bona fide* reasons, decides to cancel the recruitment process and initiate the same afresh, no enforceable right accrues to the candidate merely on the basis of his participation or placement in the select list. In such circumstances, while the hardship faced by the Petitioner is acknowledged, the same cannot be a ground to grant relief contrary to law.

55. In view of the foregoing discussion and findings, the present petition is dismissed as being devoid of merit.

56. Accordingly, the impugned order dated 18.11.2019 passed by the CAT in O.A. No. 3283/2019 is upheld.

57. There shall be no order as to costs. Pending applications, if any, shall stand disposed of.

OM PRAKASH SHUKLA, J.

C.HARI SHANKAR, J.

JULY 1, 2026/AT/gunn