

13

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

O.A.NO.1043/2001

Thursday, this the 8th day of August, 2002

Hon'ble Shri S.A.T. Rizvi, Member (A)
Hon'ble Shri Shanker Raju, Member (J)

Shri Heera Lal Sharma son of Shri Radha Krishan
resident of I-M/65, NIT Faridabad, Haryana

..Applicant

(By Advocate: Shri P.K. Bahl)

Versus

1. Directorate of Printing
Ministry of Urban Affairs & Employment
Nirman Bhawan, New Delhi through its Director
2. The Manager
Govt. of India Press
Faridabad, Haryana

..Respondents

(By Advocate: Shri Rajeev Bansal)

O R D E R (ORAL)

Shri S.A.T. Rizvi:

Heard.

2. It appears that for filling a vacancy in the post of Process Cameraman, six candidates were sponsored by the Employment Exchange. The post was to be filled by direct recruitment method. It was a Group 'C' selection post. The applicant's name was also sponsored by the Employment Exchange as part of the six candidates sponsored by the Exchange. The applicant as well as the others were trade tested and thereafter interviewed in January, 1998. One Shri Navrattan Singh was finally selected and has been appointed to the post.

3. The applicant has alleged favouritism in the matter of Shri Navrattan Singh's selection by saying that the father of the said Shri Navrattan Singh has been working in a responsible post under the respondent No.2.

d

He also submits that the registration number of the said Shri Navrattan Singh comes much after the applicant's registration number thereby saying that in a way the said Shri Navrattan Singh was junior to the applicant. In the circumstances, he seeks annulment of the selection process and setting aside of the order appointing Shri Navrattan Singh. He also seeks a direction to the respondents to appoint him instead in the aforesaid post of Process Cameraman.

4. The learned counsel appearing on behalf of the applicant, after contending that Shri Navrattan Singh's registration with the Employment Exchange was irregular inasmuch he did not fulfil the prescribed condition of five years residence, further submitted that Shri Singh got his registration done only after his previous employer had expressed no objection in the matter. Shri Navrattan Singh's name has also not been sponsored through his previous employer. For both these reasons, according to him, Shri Navrattan Singh's appointment should be held to be irregular and illegal.

5. The learned counsel appearing on behalf of the respondents has denied the allegation of favouritism. According to him, the said Shri Navrattan Singh has topped the merit list of candidates, who had appeared at the trade test/interview and was thus selected/appointed on the basis of his merit. Insofar as the allegation of favouritism is concerned, the learned counsel has pointed out that the applicant's father, who was working as Head Computer, which is a supervisory post, held a higher post

2

than the father of the said Shri Navrattan Singh who was a Class-IV employee. In view of this, according to him, the allegation of favouritism arising from Shri Navrattan Singh's father holding a responsible post cannot be sustained. Moreover, a mere bald allegation of influence peddling, without any evidence in support, must not be entertained. The appointment of Shri Navrattan Singh has been made, as stated, wholly on the basis of his merit and after a proper selection was conducted in accordance with the rules. The learned counsel has, therefore, claimed that there is no merit in the present OA.

6. The learned counsel appearing on behalf of the respondents has also taken the ground of limitation as also of non-impleadment of necessary party. In regard to the ground of limitation, he has pointed out that while the selection/appointment was made in January, 1998, the present OA has been filed on 25.4.2001 which is obviously a belated application going by the rule position contained in the Administrative Tribunals Act, 1985. No application for condonation of delay has been filed and, therefore, the present OA should be treated as time barred. Further, though the applicant has challenged the appointment of Shri Navrattan Singh, the latter has not been made a party in the present OA. The present OA is, therefore, bad due to non-joinder of necessary party as well.

7. We have carefully considered the rival contentions and find that there is no force in the argument that the applicant should have been treated

dr

preferentially in view of his seniority over Shri Navrattan Singh in the matter of registration with the Employment Exchange. All the applicants have been trade tested and interviewed as required in accordance with rules and instructions. The appointment was to be made on the basis of selection. Shri Navrattan Singh stood first in the order of merit. In the circumstances, the applicant's seniority in the matter of registration with the Employment Exchange cannot be taken as a ground for challenging Shri Navrattan Singh's selection/appointment.

8. Further, while material is not available on record to show whether or not Shri Navrattan Singh's candidature was sponsored through his previous employer, the fact remains that it has not been shown to us that such sponsorship was made a condition precedent for appointment in the present case. If Shri Navrattan Singh's candidature was actually not sponsored through previous employer, that will a matter between him and his previous employer. Shri Navrattan Singh's appointment can be adversely affected on account of the alleged non-sponsorship only if the present employers, who have selected/appointed him as Process Cameraman, were to insist on such sponsorship in accordance with the relevant rules. Since no such rule has been placed before us, the aforesaid plea advanced on behalf of the applicant is found by us to be untenable. The applicant has afterall migrated from the Govt. of India at Nasik to the same Press at Faridabad. He was permitted by the Nasik employer to get himself registered in the Exchange at Faridabad. This permission can be interpreted to

✓

imply the further permission to seek employment in the same Press at Faridabad in another post.

9. In the absence of any Act or Rule provision indicating Navrattan Singh's registration with the Employment Exchange as illegal and, therefore, flowing from it, his appointment as also illegal on that very ground, we are unable to agree with the contention raised on behalf of the applicant in connection with the requirement of five years residence for valid registration with the Employment Exchange.

10. We have considered the submissions made by the learned counsel on either side and have perused the pleadings on record and find substance as well as merit in the contentions raised on behalf of the respondents. The present OA is thus found to be devoid of merit as well as barred by time. The same is also held to be bad due to non-joinder of necessary party.

11. In the light of the foregoing, the OA is dismissed. There shall be no order as to costs.

S. Raju
(Shanker Raju)
Member (J)

/sunil/

S.A.T. Rizvi
(S.A.T. Rizvi)
Member (A)