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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

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OA.No.6 of 1998

New Delhi, this 18th day of August, 1998

HON'BLE SMT. LAKSHMI SWAMINATHAN, MEMBER(J)
HON'BLE SHRI K. MUTHUKUMAR, MEMBER(A)

Sahib Singh
S/o Shri Mehar Singh
R/o RZ-246, A-Block, Gopalnagar
Najafgarh
NEW DELHI-110043.

... Applicant

By Advocate : Shri Ajesh Luthra

versus

1. Government of National Capital
Territory of Delhi through
The Secretary (Education)
Old Secretariat
DELHI-54.
2. The Director
Directorate of Education
Old Secretariat
DELHI-54.

... Respondents

By Advocate: Shri Amresh Mathur

O R D E R (ORAL)

Hon'ble Smt. Lakshmi Swaminathan, M(J)

The short point agitated by the ^{learned Counsel for} the applicant in this case is that the respondents have wrongly rejected the candidature of the applicant for the post of T.G.T.(English) in the General Male Category to which post he had applied, in pursuance of their Advertisement dated 22.1.97.

2. Shri Ajesh Luthra, learned counsel, submits that from the reply filed by the respondents itself, ^{it can be seen that} the only ground on which the applicant has not been considered for selection to the post of T.G.T. (English) is that he did not have a valid Employment Exchange Card on the relevant date i.e., 31.12.96. The learned counsel submits that this is a wrong
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averment as the applicant did in fact have an Employment Exchange Card on that date (Annexure-2), but it is also contrary to the judgment of the Hon'ble Supreme Court in The Excise Superintendent Malkapatnam, Krishi District, Andhra Pradesh Vs. K.B.N. Visweshwara Rao & Ors. (JT 1996(9)S.C.638). In the circumstances, he has prayed for a direction to the respondents to consider the case of the applicant for selection and appointment to the post of T.G.T.(English) in the General Male Category in accordance with the rules, with consequential benefits.

3. We have heard Shri Amresh Mathur, learned counsel and perused the reply filed by the respondents. Both in the brief facts as well as in para-5(c) of the reply, the respondents have averred that the applicant is not eligible for being considered for the post of T.G.T.(English), which has been admittedly advertised in the newspapers, because he was not having a valid Employment Exchange Card as on 31.12.96. The learned counsel also submits that the Annexure-2 Employment Exchange Card relied upon by the applicant is not applicable to the facts of this case, ^{therefore, it} and he did not have a valid card from the Employment Exchange on the operative date. According to him, the Annexure-2 card submitted by the applicant which is from the Employment Exchange, Darya Ganj, does not apply to Teachers, ^{and it} ~~He submits that~~ the Employment Exchange Card from R.K. Puram, New Delhi has been obtained by the applicant for teaching jobs only with

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effect from 31.1.97. The learned counsel, therefore, contends that the ground taken by the respondents in rejecting the applicant's candidature for the post of T.G.T.(English) on this ground is valid, as he was required to have a valid Employment Exchange Card as on 31.12.96.

4. We have considered the pleadings and the submissions made by the learned counsel for the parties.

5. Admittedly, the applicant applied for the post of T.G.T.(English) in the General Male Category in response to an Advertisement issued by the respondents in the newspapers dated 22.1.97. According to the respondents, they required a valid card from the Employment Exchange as on 31.12.96. In the circumstances of the case, the respondents have not been able to satisfactorily explain as to how the date of 31.1.2.96 is relevant. Apart from this, we find merit in the submissions made by the learned counsel for the applicant that only on this ground, the respondents cannot reject the candidature of the applicant.

6. In The Excise Superintendent Malkapatnam, Krishi District, Andhra Pradesh Vs. K.B.N. Visweshwara Rao & Ors. (supra), the Hon'ble Supreme Court has held as follows:-

"Having regard to the respective contentions, we are of the view that contention of the respondents is more acceptable which would be consistent with the principles of fair play, justice and equal opportunity. It is common knowledge that many a candidates are unable to have the names sponsored, though their names are either registered

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or are waiting to be registered in the employment exchange, with the result that the choice of selection is restricted to only such of the candidates whose names come to be sponsored by the employment exchange. Under these circumstances, many a deserving candidate are deprived of the right to be considered for appointment to a post under the State. Better view appears to be that it should be mandatory for the requisitioning authority/establishment to intimate the employment exchange, and employment exchange should sponsor the names of the candidates to the requisitioning Departments for selection strictly according to seniority and reservation, as per requisition. In addition, the appropriate Department or undertaking or establishment, should call for the names by publication in the newspapers having wider circulation and also display on their office notice boards or announce on radio, television and employment news bulletins, and then consider the cases of all the candidates who have applied. If this procedure is adopted, fair play would be subserved. The equality of opportunity in the matter of employment would be available to all eligible candidates."(emphasis added).


7. The aforesaid judgment of the Supreme Court is fully applicable to the facts in this case. Accordingly, we allow this application with the following directions:

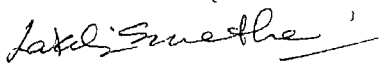
(i) Respondents shall consider the candidature of the applicant for selection and appointment to the post of of T.G.T.(English) in the General Male Category in accordance with the rules, subject to his fulfilling the eligibility conditions as prescribed under the rules, other than the ^{requirement of the} ~~condition~~ ^{discussed} of Employment Exchange Card as above. They shall do so and pass appropriate orders within one month from the date of receipt of a copy of this order.

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(ii) In case the applicant is selected. he shall be entitled to consequential benefits also in accordance with the relevant rules/instructions from the date of his appointment.

Parties to bear their own costs.


(K. Muthukumar)
Member(A)


(Smt. Lakshmi Swaminathan)
Member(J)

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