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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A.No.1074/97
M.A.No.1150/97

Hon'ble Sh. R.K. Ahooja, Member (A)

New Delhi, this the 3rd day of February, 1998

1. Sh. Summer
(Safaiwala)
S/o. Sh. Mashih
Balmik Colony,
Dholi Piau, Mathura.
2. Sh. Vishnu Kumar
(Chaukidar)
S/o. Sh. Beharilal Chaturvedi
439 Maholipur, Mathura.
3. Sh. Mehtab Singh
(Chaukidar)
S/o. Sh. Naksa
Vill. Itauli Post Khiraro via Raya, Mathura.
4. Sh. Vikram Singh
(Waterman)
S/o. Sh. Mehtab Singh
H/o. Master Saudan Singh,
Moli Kunj, Dholi Piau, Mathura.
5. Sh. Janardan Swaroop
(Farrash)
S/o. Sh. Bhagwat Swaroop
Village and P.O. Mahaban, Mathura.
6. Sh. Omprakash Saini
(Mali)
S/o. Sh. Gyasi Ram
Mali Mohalla,
Sadar Bazar, Mathura.

APPLICANTS

(By Sh. D.P. Sharma, Advocate)

Versus

1. Union of India
Through Secretary
Ministry of Communication
(Deptt. of Posts)
New Delhi.
2. The postmaster General
Agra Region,
Pratap Pura, Agra.
3. The Superintendent
of Railway Mail Services,
"X" Division, Jhansi.

RESPONDENTS

(By Sh. S. Mohd. Arif, Advocate)

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O R D E R (Oral)

The applicants six in number are working as casual labour in Railway Mail Service since 7.1.91. They are part-time workers in as much as they have split hours of duty there. Their case is that they should be given longer hours of work, be granted weekly off and gazetted holidays and be also considered for regular absorption in Group 'D' cadre.

2. The respondents in their reply have stated that part-time workers are not covered in the scheme for conferment of temporary status. The applicants in question were appointed due to sudden exigency as the earlier incumbents were regularised and posted elsewhere. They also submit that as per departmental instructions, only such part-time workers can be considered for regularisation as have passed the Departmental Literacy Test; for the Literacy Test, it is required under departmental instructions that they should be sponsored by the Employment Exchange and should not have been more than twenty five years of age at the time of their initial engagement. Out of the six applicants, only one, Sh.Mehtab Singh was sponsored by the Employment Exchange and as he was more than 25 years at the time of his initial engagement, he could not also be allowed to sit for the Departmental Literacy Test. As the others had not been sponsored by the Employment Exchange, they are also not eligible for taking this test. Hence, the relief sought for by them cannot be granted.

3. I have heard the counsel. As pointed out by the learned counsel for the applicant, the Supreme Court had decided in the case of Exicse Superintendent Malkapatnam (A.P), Vs. K.B.N. Visweshwara Rao & Ors. 22.8.96 in C.A. No.11646-11724 of 1996, SLP (C) No.8598-8676 of 1993 that though it should be mandatory for the issuing authority to intimate the Employment Exchange,

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others applying for the post can also be considered. In that case, certain candidates who ^{were} ~~are~~ not sponsored by the Employment Exchange had come before this Tribunal and directions were issued to consider their cases and to appoint them if selected. The order of the Tribunal was upheld by the Supreme Court. It has not been stated by the respondents herein as to how the applicants were considered and selected for engagement as part-time casual labour even though instructions existed that requisition should be placed in all such cases on the Employment Exchanges. One can, therefore, only presume that the applicants were considered on the basis of the applications directly submitted by them. Applying the ratio of Excise ^{Sub-Dir.} ~~Commissioner~~ ~~M.~~ Malkapatnam (Supra), the respondents cannot deny the benefit of their service towards eligibility to sit for the literacy test merely because their names were not sponsored by the Employment Exchange.

4. The learned counsel for the applicant has also sought to rely on the letter issued by the respondents dated 28.4.97 at Annexure-7 by which the Chief Post Master General had been advised to create scope for absorption of part-time casual labours by exploring the possibility of combining the part-time jobs so that full time casual labour ~~could~~ be appointed. This is however, a matter for respondents to decide as it cannot be assumed by the Tribunal in these proceedings that it would be possible to do so and that in the result full time vacancies for the applicants would come to be created.

5. In the light of the above discussion the O.A is partially allowed. The respondents are directed to allow the applicants, if they were 25 years of age or less at the time of their initial engagement for the Departmental Literacy Test and

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thereafter to consider them for regularisation in accordance with the rules of the department. There will no order as to cost.

R. K. Ahooja
(R.K. AHOOJA)
MEMBER (A)

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