

(11)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 1487/97
T.A. No.

199

DATE OF DECISION

17.10.97

Sh. Jay Prakash Shaw

Petitioner

Shri V.K. Rao

Advocate for the Petitioner(s)

Versus

UOI & ORS

Respondent

Sh. S.M. Arif for Respondent 1

Advocate for the Respondent(s)

Sh. N.S. Mehta, Sr. counsel, for R-2

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The Hon'ble Smt. Lakshmi Swaminathan, Member (J)

The Hon'ble Shri S.P. Biswas, Member (A)

1. To be referred to the Reporter or not? *yes*

2. Whether it needs to be circulated to other Benches of the Tribunal? *X*

Lakshmi Swaminathan

(Smt. Lakshmi Swaminathan)
Member (J)

(12)

Central Administrative Tribunal
Principal Bench

O.A. 1487/97

New Delhi this the 17th day of October, 1997

Hon'ble Smt. Lakshmi Swaminathan, Member (J).
Hon'ble Shri S.P. Biswas, Member (A).

Jay Prakash Shaw,
S/o Shri K.P. Shaw,
R/o 11/20, East Avenue Market,
Punjabi Bagh,
New Delhi.

... Applicant.

By Advocate Shri V.K. Rao.

Versus

Union of India, through

1. Secretary to the Govt. of India,
Department of Tourism,
Ministry of Civil Aviation and Tourism,
Sansad Marg,
New Delhi.
2. Secretary,
Union Public Service Commission,
Dholpur House,
Shahjahan Road,
New Delhi.

... Respondents.

By Advocate Shri S.M. Arif - for Respondent 1.

By Advocate Shri N.S. Mehta, Sr. Counsel - for Respondent-2

O R D E R (Oral)

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

The applicant is aggrieved by the action of Respondent 2-UPSC in not calling him for the interview held from 17 to 19.6.1997 for recruitment to the post of Assistant Director/Manager with Respondent 1.

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2. According to the applicant, he is fully eligible for consideration to the post of Assistant Director/Manager against the OBC quota. For this post, Respondent 2 had advertised calling for applications on prescribed forms by 11.4.1996, and 18.4.1996 in respect of the applications received by post from candidates from Andaman and Nicobar Islands, Lakshwadeep, States in the North Eastern Region, J&K State, Sikkim, etc. or abroad. It is not disputed that on the relevant date, the applicant was posted as Information Assistant at the Tourist Office, Paris. In response to this advertisement for the post of Assistant Director (Tourism), the applicant states that he had submitted his complete application form which was received by Respondent 2 - UPSC before 18.4.1996. The learned counsel for the applicant has submitted that as there was postal disturbance in Paris (France) during that period in April, 1996, the applicant had sent his complete application form to the UPSC by courier service. He has also stated that ~~the~~ the ground on which the application submitted before the closing date, i.e. 18.4.1996 has been rejected, is frivolous and hence he has prayed that ~~the~~ cost may be awarded in favour of the applicant.

3. Respondent 2 in their reply have submitted that according to the normal practice and procedure they were receiving applications by post from candidates from abroad, and other specified places within the country, and these were treated as in time if they were received by 18.4.1996. However, the applications received by hand on 12.4.1996 or on a later date were treated as delayed and were rejected. They have also clarified that ~~the~~ extra time has not been given by them to the applications

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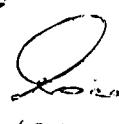
received by hand or through courier as was the case in the present situation where the applicant has admittedly sent his application through courier.

4. In this case, the learned counsel for the applicant has correctly pointed out that Respondent 2-UPSC have erroneously considered the receipt of the complete application form by them before 18.4.1996 by courier service as a delayed receipt of the application. The fact of the matter is that the applicant was abroad at the relevant time, having been posted as Information Assistant at Paris and, therefore, according to the stipulated time in the advertisement his application had to reach the UPSC by 18.4.1996 which admittedly has been complied with in this case. In the facts and circumstances of the case, we find no merit in the stand taken by Respondent 2 - UPSC that because the application was sent by courier this was not by post and it was by hand and, therefore, it should have reached ^{them} on or before 11.4.1996.

5. In this view of the matter, the application succeeds and the non consideration of the applicant's candidature by the Interview Board for the post of Assistant Director/Manager is not tenable. We have been informed that the applicant continues in his posting at Paris till date. In the circumstances, Respondent 2 - UPSC are directed to issue fresh interview letter to the applicant immediately at his Paris address and hold the interview at New Delhi at a suitable time, by giving him at least one month advance notice of the date and time.

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6: In the facts and circumstances of the case, we deem it proper to award Rs.1000/- cost in favour of the applicant and against Respondent 2. O.A. is allowed.


(S.P. Biswas)
Member (A)


(Smt. Lakshmi Swaminathan)
Member (J)

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