

(10)

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. No. 2269 OF 1997

New Delhi, dated the 26 MAY May, 1998

HON'BLE MR. S.R. ADIGE, VICE CHAIRMAN (A)
HON'BLE DR. A. VEDAVALLI, MEMBER (J)

1. Govt. of India Tourist Office
Staff Welfare Association
through its General Secretary.

2. Nirmal Kanta,
D/o Budhi Prakash,
R/o 90, Radhey Shyam Park,
Parwana Road,
Delhi-110051.

.... APPLICANTS

(By Advocate: Shri A.K. Behera)

Versus

1. Union of India through its
Secretary, Tourism,
Dept. of Tourism,
Transport Bhawan,
New Delhi-110001.

2. Shri O.P. Korotania,
Regional Director,
Govt. of India Tourist Office,
88, Janpath, New Delhi.

3. Ms. Sita Laxmi,
Govt. of India Tourist Office,
88, Janpath,
New Delhi.

4. B.L. Kachhi,
Superintendent,
Govt. of India Tourist Office,
88, Janpath,
New Delhi.

5. Vinod Kumar,
Asst. Director (Admn.)
Govt. of India Tourist Office,
88, Janpath,
New Delhi.

.... RESPONDENTS

(By Advocate: Shri R.V. Sinha for
official respondents
Shri M.K. Gupta for pvt.
Respondents

2

(11)

J U D G M E N TBY HON'BLE MR. S.R. ADIGE, VICE CHAIRMAN (A)

Applicant association and one other impugn respondents' order dated 10.9.97 (Ann. A-3) and seek a direction to respondents to fill up the post of Jr. Stenographer after taking into consideration the Reservation Roster and seniority and to give Applicant No.2 all consequential benefits on the basis of the aforesaid prayer.

2. We have heard applicants' counsel Shri Behera as well as Shri R.V. Sinha for official respondents and Shri M.K. Gupta for private respondents.

3. Admittedly there is a seniority list of LDCs/ Telephone Operators in Northern Region of Respondent Organisation as on 1.7.92 in which Applicant No.2 is at Sl. No.5 and Respondent No.3 whose appointment as Jr. Stenographer has been challenged is at Sl.No.11 (Ann. R-20).

4. Admittedly also as per Recruitment Rules for the post of Jr. Steno. (Ann. A-2) the post is to be filled by promotion on the basis of a departmental exam. in shorthand and typewriting from amongst LDCs in the Region concerned with three years of service in the grade of LDC rendered after regular appointment and possessing the qualifications mentioned in Col.8 of those Rules in which besides matric. or equivalent ~~minimum~~ ^{certain} minimum speeds of English Shorthand and

typing as essential qualifications, and knowledge of Hindi Shorthand and typing as desirable qualifications have been prescribed.

5. For judicial interference to be warranted in this O.A. at the outset applicant² association has prima facie to establish that the persons in favour of whom reservation of the post of Jr. Steno. is sought including applicant No. 2 possess the essential qualifications not only of being Matriculates or equivalent but also possess the minimum speed in English shorthand and typing as prescribed in the R.Rs which have the protection of Art. 309 of the Constitution.

6. Not only have no materials been furnished by applicant association or indeed by applicant No. 2 in this regard but there is not even an averment to that effect in the O.A. Before applicants can successfully impugn any promotion/ appointment order they must satisfy the Court that they are fully eligible for such promotion/ appointment and possess all the necessary qualifications for the same. This the applicants have not done.

7. Further more the promotion to the post of Jr. Steno. as we notice from the RRs is not on the basis of seniority-cum-fitness, but on the basis of a competitive exam. The post fell vacant

R



in Delhi Region, consequent to which Respondents issued Memo dated 28.5.96 (Ann. R-14) inviting applications from all LDCs having the prescribed speed in English Shorthand and typing and intimating that the competitive test would be held on 11.6.96. Copy of that Memo was sent to outlying offices also with the endorsement that any LDC ~~knowing~~ shorthand and typing and was interested to be posted in Delhi against the post of Jr. Steno., could report for the aforesaid test on 11.6.96. Applicant No.2 as well as others saw this Memo on 30.5.96 vide their signatures thereon, but none of them sent their options to appear for the said exam. Only R-3 whose promotion has been challenged sent her application for participation in the said test on 6.6.96 (Ann. R-15). Eventually that test was held on 6.11.96. R-3 duly passed the same and was promoted by the impugned order dated 10.9.97. There is no averment by applicants in the pleadings that this change in date of the test from 11.6.96 to 6.11.96 was done behind their back, and had they knowledge of the change in date they would have applied for participation in the test.

8. Shri Behera has argued that regardless of the fact whether applicants possessed the requisite qualifications or not, and also regardless of the fact whether they appeared in the departmental exam. as required in the RRs or

h

(14)

not, the impugned orders warranted judicial interference owing to the non application of reservation roster. We are unable to accept this argument. It was for the applicants to establish prima facie that they had ^{-a} ¹ ~~the~~ cause and for this purpose in the first instance they were required to establish that they possessed the ~~essential~~ ^{eligibility} qualifications in terms of the minimum speed in English shorthand and typing, and also that they appeared in the departmental exam. which ~~was~~ ^{was} held, or they could not appear for reasons beyond their control. Applicants have not been able to establish either of these points which are vitally necessary in terms of the RRs, which have the protection of Art. 309 of the Constitution before any judicial interference would be warranted in this case.

9. In the absence of the same, applicants have not succeeded in establishing that had the reservation roster been applied in this case, some one from the reserved category would have succeeded in being appointed to the post of Jr. Stenographer instead of R-3.

N

13

10. Under the circumstances we see no good reasons to interfere judicially in this matter.

The O.A. is dismissed. No costs.

A. Vedavalli
(DR. A. VEDAVALLI)
Member (J)

S.R. Adige
(S.R. ADIGE)
Vice Chairman (A)

/GK/