

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. NO.1059/2000
M.A. NO.1349/2000

New Delhi this the 7th day of February, 2001.

HON'BLE SHRI JUSTICE ASHOK AGARWAL, CHAIRMAN

HON'BLE SHRI S.A.T.RIZVI, MEMBER (A)

Smt. Shani Devi W/O Inder Raj,
R/O GH-2, Flat No.77-C,
Paschim Vihar, Delhi.

... Applicant

(By Shri Rajeev Sharma, Advocate)

-versus-

1. Lt. Governor of Delhi,
Raj Bhawan, Delhi.

2. Govt. of N.C.T. of Delhi,
Directorate of Education,
Establishment III Branch,
Old Secretariat, Delhi.

... Respondents

(By Shri Mohit Madan for Smt. Avnish Ahlawat, Adv.)

O R D E R (ORAL)

Shri Justice Ashok Agarwal :

MA No.1349/2000 for condonation of delay in
filing the OA is granted and delay is condoned.

Applicant is an aspirant for the post of Trained Graduate Teacher (TGT) in Hindi subject. According to her though she stood higher in the merit list than several other candidates who have been selected, her candidature has been rejected solely on the ground that she had not been registered and sponsored through employment exchange.

2. Respondents have inter alia contended that since applicant had not been registered and sponsored by employment exchange she was considered ineligible and hence not selected.

10

3. In the case of Excise Superintendent, Malkapatnam v K.B.N. Visweshwara Rao & Ors., (1996) 6 SCC 216, the Supreme Court has inter alia observed as under :

"6. 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 candidate is unable to have the names sponsored, though their names are either registered 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 is 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."

4. If one has regard to the aforesaid observations of the Apex Court, a conclusion is irresistible that the claim of the applicant for appointment cannot be rejected on the aforesaid ground of her having not been registered with employment exchange and she not having been sponsored by it. She

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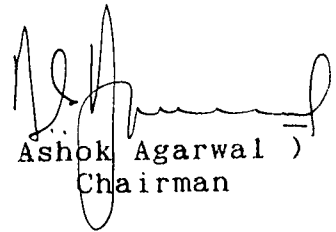
will, in the circumstances, be entitled to be considered on the basis of her merit. She cannot be considered ineligible on the aforesaid ground of not being registered with and not being sponsored by employment exchange.

5. For the foregoing reasons, we direct the respondents to consider the claim of applicant for appointment to the post of TGT in Hindi Subject in response to the advertisement issued on 21.1.1997 at Annexure R-1, on the basis of her merit and give her appointment in case she is found fit. In case applicant is selected and is appointed she will be entitled to the grant of notional seniority. She will, however, not be entitled to backwages. These directions be complied with within a period of six weeks from the date of service of this order.

6. Present OA is allowed in the aforesaid terms. No costs.



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



(Ashok Agarwal)
Chairman

/as/