

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH : NEW DELHI

OA No.1170/2000

Date of decision: 18.1.2001

Shri Jagbir Singh

Applicant

(By Advocate: Shri S.C. Phogat

versus

Govt. of NCT of Delhi & Anr. ..

Respondents

(By Advocate: Mrs. Sumedha Sharma

CORAM:

The Hon'ble Shri V.K. Majotra, Member A)

The Hon'ble Shri Shanker Raju, Member J)

1. To be referred to the report or not? Yes
2. Whether it needs to be circulated to other Benches of the Tribunal?

S. Raju

(Shanker Raju)
Member(J)

Cases referred:

Excise Supdt. Malkapatanam Vs. K.B.N.Vishweshwara Rao & Ors.
JT 1996 (9) SC 638

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.1170/2000

New Delhi, this 19th day of January, 2001

Hon'ble Shri V.K. Majotra, Member(A)
Hon'ble Shri Shanker Raju, Member(J)

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Jagbir Singh
V & P.O.Sohati
Dt. Sonapat (Haryana)

.. Applicant

(By Shri S.C.Phogat, Advocate)

versus

1. Lt. Governor
Govt. of NCT of Delhi
Raj Niwas, Delhi
2. Commissioner of Police
Delhi Police, Police Hqrs,
MSO Building, New Delhi

.. Respondents

(By Mrs. Sumedha Sharma, Advocate)

ORDER

By Shri Shanker Raju

The applicant is an ex-serviceman, retired from Army in April, 1998. He applied for the post of Constable (Executive) in Delhi Police during the recruitment pertaining to the year 1998 (1st phase) against vacancies reserved for ex-serviceman. He qualified the physical test and, later on, was provisionally selected after medical examination for the aforesaid post on 9.10.98. One of the conditions for appointment for the post was that the candidate should have got his name registered with any Employment Exchange atleast one month before 24.4.98. The applicant got his name registered in the Employment Exchange at Delhi on 27.4.1998 and as such he has been issued show cause notice on 31.5.99 proposing to cancel his candidature for the post of Constable(Executive). Applicant filed reply to the show cause notice and vide the impugned order dated 7.10.99 candidature of the applicant for the said post has been cancelled as he failed to fulfil the

eligibility condition regarding registration with the Employment Exchange on or before 24.4.98. The applicant carried this cancellation order to the Commissioner of Police and the same was rejected on 1.7.2000. (10)

2. Respondents in their reply have stated that as the applicant was not eligible his candidature was cancelled. According to them, applicant got his name registered on 27.4.98 whereas he should have registered a month before 24.4.98.

3. We have considered the rival contentions and passed through the material on record.

4. According to us, the respondents are not justified in imposing the condition of the candidates being required to be registered with the employment exchange as eligibility for making applications for employment. The Supreme Court in the case of Excise Superintendent, Malkapatanam Vs. K.B.N.Visweshwara Rao & Ors. JT 1996(9) SC 638, has held as follows:

"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 candidates are unable to have their 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 candidates 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, fairplay would be subserved. The equality of opportunity in the matter of employment would be available to all eligible candidates" (11)

5. If one has regard to the afore-said decision of the Supreme Court, a finding is irresistible that the respondents were not justified in imposing the aforesaid condition of eligibility of being registered with the employment exchange. Once it is found that the aforesaid requirement is unsustainable, it follows that the aforesaid decision cancelling the candidature of applicant is also unsustainable. We are also fortified in this view of ours by the decision of this Tribunal in OA No.278/2000 dated 17.8.2000.

6. In the result, the OA is allowed. The impugned show cause notice 31.5.99, cancellation order dated 7.10.98 as well order on the representation dated 1.7.2000 are quashed and set aside.

7. Respondents are directed to issue offer of appointment to the applicant to the post of Constable (Executive) within a period of three months from the date of receipt of a copy of this order. Applicant shall be entitled to all consequential benefits as per rules on the subject. No costs.

S. Raju
(Shanker Raju)
Member(J)

V.K. Majotra
(V.K. Majotra) 19.01.2001
Member(A)