

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

OA NO. 838/89

DATE OF DECISION: 16/3/1990

MUKHTIAR SINGH SANGWAN

APPLICANT

SHRI V.P. SHARMA

ADVOCATE FOR THE APPLICANTS

VERSUS

UNION OF INDIA & OTHERS

RESPONDENTS

MRS. RAJ KUMARI CHOPRA

ADVOCATE FOR THE RESPONDENTS
No. 1, 2, 3

SHRI R.R. SINGH

ADVOCATE FOR THE RESPONDENTS
No. 4 & 5.

CORAM:

THE HON'BLE MR. T.S. OBEROI, MEMBER (J)

THE HON'BLE MR. I.K. RASGOTRA, MEMBER (A)

1. Whether Reporters of local papers may be allowed to see the judgement? *yes*
2. To be referred to the Reporter or not? *yes*
3. Whether their Lordships wish to see the fair copy of the Judgement? *No*
4. To be circulated to all Benches of the Tribunal *No*

J U D G E M E N T

(Of the Bench delivered by the Hon'ble Mr. I.K. Rasgotra, Member (A))

The above application has been filed against the action of the respondents for non-inclusion of the applicant's name in the list of candidates for the selection of EDA Branch Post Master at village Khurra District Rohtak, under Section 19 of the Administrative Tribunals Act 1985.

9

The facts of the case in brief are that the applicant was appointed as EDA Branch Post Master at village Khurra vide order on 29.6.1988, after giving wide publicity in the village by the Sub Divisional Inspector (Postal). The appointment, however, was made subject to the confirmation by the Senior Superintendent of Post Offices, Rohtak. The applicant's grievance that the Senior Superintendent of Post Offices instead of confirming him, has ordered that the names of suitable candidates belonging to the village, Khurra may be obtained from the Rural Employment Exchange Matenhal for selecting a suitable candidate for appointment as EDA BPM, Khurra village. Although the applicant is registered under registration No.341/88 with the Rural Employment Exchange, Matenhal, his name has not been sponsored by the Employment Officer, Rural Employment Exchange Matenhal, District Rohtak, (respondent No.5). The applicant has contended that:-

- (a) He was selected for appointment by the Sub Divisional Inspector (Postal) after giving wide publicity in the village and, therefore, it was not necessary to make a selection after obtaining names from the Employment Exchange.
- (b) In any case he has the right to be considered alongwith others sponsored candidates for selection for appointment as EDA BPM.
- (c) Since he has been working as EDA BPM w.e.f. 29.6.1988 he has acquired a status and right of

10

continuing in the job. To support his case he has cited the judgement delivered in the case of Y.K. Bhatia, Vs. State of Haryana & Others AIR 1977 P & H 153 (FB),

- (d) He is the only person who has the experience for the job.

By way of relief the applicant has prayed that the Tribunal may direct the respondent to consider the applicant for regularising his service declaring the action of the respondents to hold the proposed selection illegal. As an interim measure, the applicant prayed that the Tribunal may direct respondent No. 4 & 5 to sponsor the name of the applicant for screening selection for the post of EDABPM.

3. In the counter reply respondents No. 1, 2 & 3 have stated that the applicant was engaged temporarily to relieve one Shri Kailash Kumar as he was involved in a fraud case. After the finalisation of the fraud case Shri Kailash Kumar was removed from Service and Employment Officer, Rohtak was approached for sponsoring candidate for the said post. The applicant's name was not sponsored by the Employment Exchange, Matenhal. The respondents, therefore asked the applicant to have his name forwarded through the Employment Exchange if he wanted to work as EDABPM. The applicant however has not responded to the department's letter. It has been further submitted that it is mandatory for the department vide DG Post's letter No. 45-22/71/PSB/1/Pen dated 4.9.1982 to recruit the EDAs through

2

11

Employment Exchange. The Sub-Divisional Inspector (Postal) can make the appointment only to ensure quick administration and in anticipation of the formal approval of the Sr. Supdt. Post Offices, where there is no contest for the post of EDBPM. In the present case, however, there are very many candidates in the field. It has been further contended that the applicant has no right for permanent absorption as he was appointed on purely temporary basis to run the Post Office till regular arrangement was made. From Annexure A (page 31 of the paper book) to the counter reply it is observed that the Employment Exchange Office Matenhal has recommended 8 persons belonging to village Khurra for consideration of the Sr. Supdt., Post Offices. The applicant however does not figure in the list.

4. The Assistant Employment Officer, Matenhal, Rohtak District in his counter has stated that the applicant is registered with the Employment Exchange under registration No. 341/88 on 3.6.1988. The names of the persons sent to the Sr. Supdt. Post Offices are of those persons who were registered on or before 19.1.1987. On receipt of the demand from respondent No.2 the Employment Exchange had given call letters to 14 candidates of Khurra village for verification. 11 persons responded to call letters but 3 of them refused. He therefore forwarded 8 names to the Senior Superintendent of Post Offices.

5. We have heard the Ld. Counsel of the applicant, respondent No. 1, 2, & 3, respondent No. 4 & 5. The facts of the

case are that the Postal Inspectors are authorised to appoint EDA BPM in terms of Rule 10 of Section III Method of Recruitment (page 64) of Swamy's Compilation of Service Rules for Extra Departmental Staff to ensure quick administration when there is no contest for the post of EDABPM in anticipation of the formal approval of the Supdt. of Post Offices. The formal orders in this connection are to be issued by the competent authority namely the Divisional Superintendent. Thus, the power of the Inspectors are purely for making a stop gap arrangement for the limited purpose of quick administration. The action of the Sr. Supdt. Post Office (respondent No.2) in obtaining the names of the eligible candidates from the Rural Employment Exchange is unexceptionable for making a regular appointment to the post of EDBPM. In this case obviously, many more candidates were available even though the wide publicity given in the village earlier could bring up only one candidate. It is further observed that according to the Circular No. 35/88/9.13 the Employment Exchange is required to submit a panel of names at 8 times the number of vacancies (maximum) when the vacancies range from 1 to 3. The Employment officer can, however issue call letters to the registered persons upto double the maximum number of submissions to be made. The Employment Exchange, in this case issued call letters to 14 persons registered upto 19.1.1987 and sponsored 8 candidates who evinced interest in the past were sponsored by the Employment Exchange. The applicant however does not come within the zone even if it was extended to 20 names.

The exemptions from selecting a person from outside the

13

panel of names sponsored by the Employment Exchange is available in some cases in accordance with the Rule 17 Section III Method of Recruitment (Swamy's Compilations page 73) but these exceptions do not cover the case of the applicant. The case of Shri Y.K. Bhatia and Others Vs. State of Haryana (AIR 1977 P&H 153 (FB) and the judgment of this Tribunal pronounced on 5.5.1989 in the case of Durga Bhowmick (Smt) & Others Vs. UOI and others (1989(5) SLR 233 are distinguishable from the facts of the present case. The case of the applicant rests only on the foundation of his having been positioned as EDABPM, Khurra w.e.f. 29.6.1988 by the Sub-Divisional Inspector (Postal) after wide publicity. He had not issued any appointment letter to the applicant. Annexure A-1 of the application (page 14 of the paper book) is a statement of the applicant indicating that he has taken over the work of the Post Office, Khurra at the instance of Sub-Divisional Inspector (Postal), on the said date.

6. Normally there should be no occasion for intervention in the matter as both the Sr. Supdt. Post Offices and the Employment Exchange have followed the well defined and established policy. However, keeping in view the facts and circumstances of the case, we feel that the applicant should also be considered by the respondents along with other candidates sponsored by the Employment Exchange, Matenhal. For this purpose the Employment Exchange, Matenhal should also extend the zone upto and including the persons registered on and before 3.6.1988, belonging and residing in Khurra Village instead of restricting the zone to 19th January, 1987. The competent authority shall be at liberty

14

to select the best candidate without assigning any weightage to any particular candidate, in accordance with the rules. The application is disposed of with the directions as above. There will be no orders as to the cost.

I.K. Rasgotra
(I.K. Rasgotra)
Member (A) 16/3/90

T.S. Oberoi
(T.S. Oberoi)
Member (J) 16/3/90