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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A. NO.2227/2004

This the 17 ^{JK} day of October, 2005.

HON'BLE SHRI V. K. MAJOTRA, VICE-CHAIRMAN (A)
HON'BLE SHRI SHANKER RAJU, MEMBER (J)

1. Vijendra Pal Singh S/O Govind Ram,
Counter, Government of India Press,
Aligarh, UP.
R/O House No.4/787, Kapra Ghar Wali Gali,
Dodhpur, Civil Lines, Aligarh (UP).
2. Surendra Pal Singh S/O Mahipal Singh,
Peon, Government of India Press,
Aligarh, UP.
R/O Ram Nagar Colony,
Near Etah Chungi, in front of Hindustan
Petrol Pump, aligarh (UP).
3. Jagpal S/O Sonpal Singh,
Peon, Government of India Press,
Aligarh, UP. R/O Vill. & Post Dunai,
Distt. Aligarh (UP). ... Applicant

(By Shri D.N.Sharma, Advocate)

Versus

1. Union of India through
Director of Printing,
Government of India,
Nirman Bhawan, New Delhi.
2. Manager,
Government of India Press,
Aligarh (UP). ... Respondents

(By Shri J.B.Mudgil, Advocate)

O R D E R

Hon'ble Shri V.K.Majotra, Vice-Chairman (A):

Through this OA, applicants have sought a direction to respondents to declare their result in regard to examination conducted on 27.12.1999 in connection with 10% quota for educationally qualified Group 'D' employees for the post of LDC.

Vb

2. It has been claimed that one post of LDC fell vacant on 24.5.1999 in the Government of India Press, Aligarh on account of the promotion of one Dinesh Kumar, LDC to the post of UDC. The Manager, Government of India Press, Aligarh, conducted the departmental test under the relevant rules on 27.12.1999 for filling up the vacancy under 10% quota for educationally qualified Group 'D' employees. Applicants appeared in the examination but their result was not declared. It has been alleged that without declaring the result for the examination held on 27.12.1999, respondents attempted at conducting another examination on 6.4.2000. The learned counsel of applicants contended that respondents did not declare the result of the examination held on 27.12.1999 despite several representations of applicants. The learned counsel relied on AIR 1962 SC 602 – *Krishan Chander Nayar v Chairman, Central Tractor Organisation & Ors.*, stating that non-declaration of result of the examination for promotion to the post of LDC was in contravention of the right guaranteed under Article 16(1) of the Constitution of India.

3. On the other hand, the learned counsel of respondents stated that the three applicants had appeared in the examination held on 27.12.1999. However, they did not qualify in the examination. They were given another opportunity to appear in the second examination which was scheduled to be held on 6.4.2000. Applicants had noted that the next examination was to be held on 6.4.2000 but they refused to appear in the examination on the ground that they should be given a further period of ten days for preparation for the examination. Respondents have also produced the records relating to the examination held on 27.12.1999.

4. We have considered respective contentions of the parties as also perused material on record and that produced by respondents.

5. In the matter of *Krishan Chander Nayar* (supra), after termination of the services of the petitioner by reason of his antecedents in accordance with rule

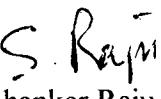


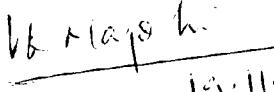
5 of the Central Civil Services (Temporary Service) Rules, 1949, a ban was imposed by the Government against him in the matter of his employment under the Government. It was held that the petitioner had been deprived of his constitutional right contained in Article 16(1) of the Constitution. The Constitution guarantees a fundamental right for making an application as also consideration on merits for the post for which an application is made. The ban apparently was imposed against the petitioner's consideration on merits and deprived him of that guaranteed right. The learned counsel maintained that by not declaring applicants' result in the said examination, respondents have deprived applicants of the fundamental right guaranteed by the Constitution for consideration on merits for the post for which they had taken the examination. Certainly, applicants had a right for consideration on merit for appointment on the post of LDC for which the departmental examination was conducted on 27.12.1999. Respondents have stated that the fact that applicants had applied for taking the second examination indicates that they knew that they had not qualified the examination conducted on 27.12.1999. It is a different matter that they did not appear in the next examination. We have perused the related record of the examination in which applicants had appeared. All the three applicants have failed in the examination. Obviously, they were considered on merit for promotion on the post of LDC on the basis of the examination conducted on 27.12.1999. However, they failed in the examination and as such, were required to appear in the second test in which they did not appear of their own volition. Applicants had been considered for promotion on the post of LDC on the basis of departmental competitive examination held on 27.12.1999. However, they did not make the grade and failed in the same. They had a constitutional right for consideration for promotion to the post of LDC on the basis of departmental competitive examination held on 27.12.1999 against 10% quota prescribed for educationally qualified Group 'D' employees. They availed of the said right but

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failed in the examination. They have not been deprived of the constitutional right contained in Article 16(1) of the Constitution.

6. Having regard to the foregoing discussion, this OA is liable to be dismissed being without any merit. It is dismissed accordingly.


(Shanker Raju)
Member (J)


(V. K. Majotra)
Vice-Chairman (A)

/as/