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**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

O.A. NO.2901/2004

New Delhi, this the 26 day of March, 2006

**HON'BLE MR. V.K. MAJOTRA, VICE CHAIRMAN (A)
HON'BLE MR. MUKESH KUMAR GUPTA, MEMBER (J)**

Shri Gajraj Singh,
S/o Shri Chandra Pal Singh,
Vill. Shikaran, Tehsil-Koil,
Distt. ALIGARH (U.P)
(By Advocate: Shri D.N. Sharma)

... APPLICANT

VERSUS

1. Union of India,
Through: The Director of Printing,
Government of India,
'B' Wing, Nirman Bhawan,
New Delhi

2. The Manager,
Government of India Press,
Aligarh (UP)
(By Advocate: Shri S.N. Sharma)

... RESPONDENTS

O R D E R

By Mukesh Kumar Gupta, Member (J):

By the present OA, applicant seeks directions to respondents to appoint him as Assistant Binder with costs etc.

2. The facts as stated are that the applicant passed High School Examination of UP Board in the year 1985 and Intermediate Examination of UP Board in the year 1991. He underwent Apprenticeship Training in Book Binding from 7.10.1988 to 6.10.1990 at the Govt. of India Press, Aligarh and passed the prescribed test in November 1990. Government of India Press, Aligarh vide letter dated 4.5.1995 notified two vacancies of Assistant Binder in the scale of pay of Rs.950-1500 out of which one post was reserved for Scheduled Caste candidate and the other vacancy was un-reserved. The Employment Exchange, Aligarh vide letter dated 30.5.1995 sponsored names of 10 scheduled caste and 9 eligible general category candidates. Applicant's name was neither sponsored

nor he was called by the concerned authorities for interview. Therefore, he filed Original Suit No.282/1995 seeking direction to respondents to fill up the vacancy of Book Binder from the person who are apprentice of 2 years and not more than 27 years old. Vide judgment dated 25.8.1999, IIInd Additional Civil Judge (Jr. Division), Aligarh, dismissed the same. On Civil Appeal filed before the Additional District & Session Judge, Aligarh, the same was allowed vide judgment dated 31.7.2000 and the respondent No.2 therein was directed to consider the applicant in case he had not attained 27 years of age and also if some vacancies were available as well as the selection process had not yet been completed. Despite the aforesaid judgment, no steps were taken by respondents to appoint him against the notified vacancy and, therefore, he filed Civil Revision No.7/2002 before the District Judge, Aligarh, who in turn maintained the judgment passed by the Additional District Judge dated 31.7.2000 and dismissed the said Revision holding that "the order of the executing court is just and proper" and that the decree obtained by the revisionist stands. As and when the decree of the revisionist becomes executable, the revisionist-decree-holder was free to proceed with the fresh execution.

3. The grievance of the applicant is that despite the aforesaid civil decree passed in his favour, the respondents have yet not taken any step to appoint him to the concerned post and his representations made on the said subject remained unattended. Reliance was placed on **U.P. State Road Transport Corporation and another v. U.P. Parivahan Nigam Shishukhs Berozgar Sangh and others**, AIR 1995 SC 1115, contending that a trained apprentice should be given preference. Reliance was also placed on **Narender Kumar and Others v. State of Punjab and Others**, (1985) 1 SCC 130.

4. Respondents contested the claim laid by the applicant contending that he is not an employee under the Central Government. He being an ex-apprentice, not entitled to invoke the provisions of Administrative Tribunals Act, 1985. Since there is a ban to fill up the posts except on compassionate appointment, no appointment has been made to the said post. It is further stated in reply to para

5.6 that "infact no single vacancy of Assistant Binder has been filled up by Direct Recruitment except compassionate appointment till date in this Press".

5. We have heard learned counsel for the parties and perused the pleadings carefully.

6. As far as reliance placed on **U.P. Parivahan Nigam Shishukhs Berozgar Sangh** (supra) is concerned, we may note that certain guidelines were laid by the Hon'ble Supreme Court, keeping in view the object and mandate of Section 22 of the Apprentices Act, 1961, and vide para 12, the authorities were directed to take certain steps. The said para reads as under:

"12. In the background of what has been noted above, we state that the following would be kept in mind while dealing with the claim of trainees to get employment after successful completion of their training:

- (1) *Other things being equal, a trained apprentice should be given preference over direct recruits.*
- (2) *For this, a trainee would not be required to get his name sponsored by any employment exchange. The decision of this Court in *Union of India v. H. Hargopal* would permit this.*
- (3) *If age bar would come in the way of the trainee, the same would be relaxed in accordance with what is stated in this regard, if any, in the service rule concerned. If the service rule be silent on this aspect, relaxation to the extent of the period for which the apprentice had undergone training would be given.*
- (4) *The training institute concerned would maintain a list of the persons trained yearwise. The persons trained earlier would be treated as senior to the persons trained later. In between the trained apprentices, preference shall be given to those who are senior".*

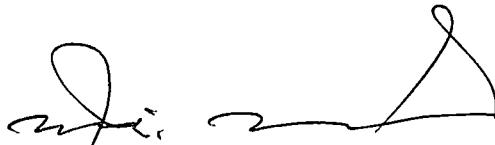
In the next paragraph of the judgment, the Corporation was directed to act in accordance with what has been stated above in case "the posts are still vacant". Reliance was also placed on AIR 1962 SC 602, **Krishan Chander Nayar v. The Chairman, Central Tractor Organisation & Ors.**, to contend that the arbitrary imposition of ban against employment of certain person under Government contravened applicant's right guaranteed under Article 16 (1) of the Constitution of India.

7. We have carefully perused the aforesaid judgments and are of the considered view that the law laid down therein has no application in the facts and circumstances of the present case. In the case of **Krishan Chander Nayar**, the petitioner's services were terminated by reason of his antecedents in accordance with Rule 5 of the Central Civil Service (Temporary Service) Rules, 1949 and immediately thereafter the ban was imposed by the Government. Such are not the facts in the case in hand. Therefore, the ratio in the said judgment has no application. Similarly, **U.P. Parivahan Nigam Shishukhs Berozgar Sangh** (supra) has no application, as there is no vacancy in existence and further that there existed a ban on employment. By producing a copy of the Recruitment Rules, respondents pointed out that the post of Assistant Binder has to be filled in terms of the statutory rules vide which the said post is to be filled up 50% by promotion and 50% by direct recruitment failing which by deputation. In our considered view, mere eligibility will not cloth the applicant the right of appointment. An apprentice has to undergo the process of selection as per the service Rules. Since there was a ban imposed by the Central Government in the matter of recruitment in Groups C and D posts, which is in existence, it would be inappropriate on our part to issue a direction to respondents to consider the applicant for appointment against any existing or future vacancies. The Recruitment Rules have to be followed and the eligibility has to be decided in terms of statutory rules as and when such selection process is undertaken by the respondents. Even mere empanelment does not confer an indefeasible right to be appointed, is the settled law laid by the Hon'ble apex Court in 1991 3 SCC 47 **Shankaran Dash vs. Union of India**. Para 7 of the said judgment reads thus:-

"7. It is not correct to say that if a number of vacancies are notified for appointment and adequate number of candidates are found fit, the successful candidates acquire an indefeasible right to be appointed which cannot be legitimately denied. Ordinarily the

notification merely amounts to an invitation to qualified candidates to apply for recruitment and on their selection they do not acquire any right to the post. Unless the relevant recruitment rules so indicate, the State is under no legal duty to fill up all or any of the vacancies. xxxxxxxx"

8 In view of the discussion made hereinabove, we find no reason and justification to issue any direction to respondents to appoint the applicant to the post in question. Accordingly, the OA fails and is dismissed. There shall be no order as to costs.



(Mukesh Kumar Gupta)
Member (J)


3.3.06

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

/PKR/