

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

O.A.No.1418/93

(b)

New Delhi this the 10th Day of November, 1993.

Hon'ble Sh. J.P. Sharma, Member(J)
Hon'ble Sh. B.N. Dhoundiyal, Member(A)

Shri Dharamvir
Son of Sh. Prem Dutt
Resident of 764, Gali No.22,
Swatantar Nagar, Narela,
Delhi-110040.

... Petitioner

(Applicant in person)

versus

The Director,
Posts & Telecommunications
Audit Office,
Civil Lines,
Delhi-110054.

... Respondents

(By Advocate Shri Jog Singh)

ORDER(ORAL)

(Delivered by Hon'ble Sh. J.P. Sharma, Member(J)).

The case of the applicant is that he had been working as a daily rated casual labourer in the Posts & Telecommunications Audit Office, Delhi. The respondents called for a selection to fill up certain vacancies on regular basis and 52 candidates were called for interview in September, 1992. His contention is that out of these persons only 46 persons were sponsored by the Employment Exchange and 3 including the applicant were working as daily rated mazdoors in the office of respondent and the remaining 3 were neither working as daily rated mazdoor in the office of respondent. In the select list prepared by the respondents on the basis of the said interview in September, 1992, 2 S.C. candidates and 6 general category candidates were selected for regular appointment to group 'D' post. However, since there was some complaint by the union as well as by the applicant that certain candidates

Je

were not eligible as not belonging to the main office have been considered and enlisted in the panel. The respondents, therefore, scrapped the aforesaid panel on 19.1.93 and called for a fresh selection in March, 1993. He also contended that he was not considered in the second selection and 4 persons were selected, 2 have been given appointment in group 'D' post on the basis of interview held on 20.05.93. He has prayed in this application that the said appointment be cancelled and the vacancies on regular basis be filled on the basis of interview held in September, 1992.

Notice was issued to the respondents who contested the grant of the reliefs and stated that the panel of September, 1992 was scrapped after taking into account the representation of the staff association of All India Audit & Accounts Association and the instructions issued by the CAG in the letter dt. 30.12.1987. Fresh nominations were called from the Employment Exchange and on the basis of the fresh interview a select list was prepared. In this list 6 candidates have been approved for appointment in group 'D' including 2 S.C. candidates and they have since been given appointment in group 'D' post.

A daily rated casual labourer has no lien to a post. He can prefer his appointment only on the basis of a standing in the said organisation as daily rated mazdoor. The applicant has worked for only 5 months on casual basis. The case of the respondents is that the second panel has been prepared strictly according to the rules on the basis of seniority of those persons who had already been working as daily rated mazdoor in the office of the respondents.

There is no allegation that in the second panel certain outsiders or those who are junior to the applicant have been empanelled. However, during the course of the argument, the applicant who appeared in person stated that he is not aware of the actual position of the office but certain persons who were working with him have been empaneled. On query put to the learned counsel for the respondents it is revealed that out the panel prepared for 6 persons two belonging to SC and 2 general category candidates have working with the department and remaining 2 are those who had ^{not been} working as daily rated mazdoor have been enlisted because their names were sponsored by the Employment Exchange. This appears to be discriminatory as the applicant has not been given chance to be considered which he should have been given.

In view of this fact the relief claimed by the applicant that the panel be quashed cannot be allowed at this stage as none of the selected persons is made a party. However a direction can be given to the respondents to consider the case of the applicant if there is a vacancy of general category. It is also necessary in the interest of justice that if there is a casual labourer vacancy is available the applicant be allowed to continue on casual basis till he is considered for regularisation to group 'D' post. This observation is to be given effect when there is available vacancy and the work with the respondents.

In view of the above facts and circumstances of the case, this application is disposed of at the admission stage with the following directions:-

- (a) The relief claimed for quashing of the panel drawn by the respondents on the basis of interview held on

20.5.93 is not quashed but the respondents shall not give any further appointment to any person who has not been given appointment and was not working as daily rated mazdoor earlier to the applicant on the basis of standing as a casual labourer;

9

- (b) The respondents are directed to consider the case of the applicant as and when a regular vacancy occurs and till then the respondents may consider the case and give engagement to the applicant on casual basis if the work is available in preference to his juniors and freshers;
- (c) The respondents are directed to comply with the order as expeditiously as possible.

There will be no orders as to costs.

B.N. Dhoundiyal

(B.N. DHOUNDIYAL)
Member (A)

J.P. Sharma

(J.P. SHARMA)
Member (J)

/vv/
101193