

23

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

O.A. No. 1847 of 1993

New Delhi this the 27th day of September, 1999

HON'BLE MR. JUSTICE V. RAJAGOPALA REDDY, VICE CHAIRMAN
HON'BLE MRS. SHANTA SHASTRY, MEMBER (A)

Ram Niwas
Son of Shri Raghunath Singh,
R/o E-170 Dev Nagar, Govt. Quarters,
Karol Bagh,
New Delhi-110 005.

... Applicant

(By Advocate: Shri M.K. Gupta)

-Versus-

1. Union of India,
Through the Secretary to the Govt. of India,
Ministry of Defence,
South Block,
New Delhi-110011.
2. The Chief Engineer (Headquarters),
Delhi Zone, Delhi Cantt-110 010.
3. Administrative Officer-I,
C/o The Chief Engineer (HQ),
Delhi Zone,
Delhi Cantt. 110 010.

... Respondents

(By Advocate: Shri V.S.R. Krishna)

O R D E R (Oral)

By Reddy, J.

Heard the learned counsel for the applicant
and the respondents.

2. The applicant is a Civil Engineer having passed the three years Diploma course conducted by the State Board of Technical Education, Haryana. The respondent-2 i.e, Chief Engineer(Headquarters), Delhi Zone, Delhi Cantt. addressed to the Regional Employment Exchange, Pusa, New Delhi asking sponsorship of candidates for recruitment of Surveyor Assistant Grade-II in Military Engineering Service (MES). Since a copy of the said letter was

CAS

24

sent to different Scheduled Caste Organisations and the applicant having been registered with the Delhi Scheduled Caste Welfare Association, his name was sponsored by the above Association to Respondent-3 for selection as Surveyor Assistant Grade-II. The applicant was called for the written test and the interview. Accordingly he wrote the written test. He also appeared in the interview on 28.2.1992. But the applicant had not been ultimately selected. It is the case of the applicant that persons with lower merit/rank had been selected and one such person was Shri Ganga Ram. Hence he filed the present OA for a direction to appoint him as Surveyor Assistant Grade-II in MES with effect from the same date in pursuance of his merit in the selection held as aforesaid.

3. The learned counsel for the applicant submits that the respondents having taken into consideration the application sponsored by the Delhi Scheduled Caste Welfare Association and having considered him for selection, he ought to have been appointed as he stood first in the merit. The learned counsel for the respondents however submits that the applicant was not entitled for being appointed as he was not sponsored by the Regional Employment Exchange. It is the case of the respondents that the 2nd respondent requested only the Regional Employment Exchange Officer to sponsor the candidates and the applicant being not one of the candidates sponsored by the Regional Employment Exchange, he was rightly not selected.



4. Admittedly, the 2nd respondent, in its ²⁵ letter dated 31.10.1991 asked only the Regional Employment Exchange, Pusa, New Delhi to sponsor the names of the candidates for filling up 17 posts of Surveyor Assistant Grade-II in MES. The applicant belongs to Scheduled Caste category. As per the above letter, there were three vacancies for Scheduled Caste candidates. But it should be noted, though the letter was addressed to the Regional Employment Officer, the copies of the same had been sent to several organisations including the Delhi Scheduled Caste Welfare Association. The applicant's name has been sponsored by the said organisation.

5. The applicant had been duly considered for selection and he was found successful in the written test as well as in the interview. It is the case of the respondents that the number of vacancies of 17 had been reduced to 10. Due to the reduction of the vacancies, only one post was allotted to Scheduled Caste quota instead of 3 posts.

6. The respondents filed counter to the MA.2186/98 in the OA. As Annexure to the counter, the respondents produced the panel of selected candidates (merit list) for recruitment as Surveyor Assistant Grade-II. It is clear from this list that the applicant was placed in the merit list in the category of Scheduled Caste as No.1 and Shri Ganga Ram was No.2. The only plea of the respondents is that it is a condition precedent that the Regional Employment Exchange should send the applications.

CRA


Other applications are liable to be rejected. This plea now cannot be countenanced. The copies of the letter dated 31.10.91 had been sent to several organisations including the Delhi Scheduled Caste Welfare Association. The contention of the respondents that the said letter was sent to the several organisations only for their information, cannot be accepted particularly in view of the fact that the applicant had been considered for selection. He was found successful in written examination as well as in interview and his name was also shown as No.1 in the merit list in the category of Scheduled Caste. If the respondents really meant to consider only the applications sponsored by the Regional Employment Exchange, the applications sponsored by the Delhi Scheduled Caste Welfare Association should have been rejected even at the threshold. Further in view of the judgment of the Supreme Court in Excise Superintendent Malkapatnam Krishna District, Andhra Pradesh Vs. K.B.N.V. Rao 1996 (7) SC.216, the plea of the respondents that the applications have to be routed through Employment Exchange, cannot be accepted. In the aforesaid case The Supreme Court held that it is common knowledge that many 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 candidate are deprived of the right to be considered for appointment for a public post.



The equality of opportunity in the matter of employment should be ensured to all the eligible candidates.

7. In view of the above authoritative pronouncement of the Supreme Court, it has to be held that the applicant should have been selected on his merit. We are of the view that the applicant being No.1 in the seniority list among the Scheduled Caste category candidates, he should have been selected and appointed in the Scheduled Caste vacancy. But in view of the fact that the selected candidate Shri Ganga Ram has not been made a party in the OA, his selection cannot be disturbed. Hence we directed the respondents to find out about the position of vacancies presently available in the Surveyor Grade-II in MES. In the affidavit filed by the respondents it is now stated that there is no vacancy as on the date of filing the affidavit.

8. In view of the above, we direct the respondents to consider the case of the applicant for appointment to the post of Surveyor Assistant Grade-II in MES in the 1st available vacancy. With this direction the OA is disposed of. No order as to costs.


(Mrs. Shanta Shastri)
Member(A)


(V. Rajagopla Reddy)
Vice Chairman(J)