

CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH

ALLAHABAD.

Original Application No. 1229/97  
~~Transfer Application no.~~

Date of Decision 29/7/95

Mohd. Nasim and another

Applicant(s)

Counsel for the Applicant Sri A.K. Banerji &  
Sri Upendra Nath, Advt. Counsel for the Applicant(s)

V E R S U S

Union of India & Others

Respondent(s)

Shri N.B. Singh, Advocate.

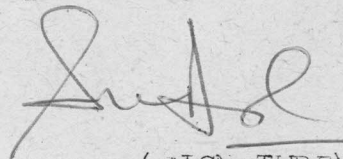
Counsel for the Respondent(s)

C O R A M

Hon'ble Mr. S. Dayal, Member (A)

Hon'ble Mr. S. K. Agrawal, Member (J)

- 1.
1. Whether Reporters of local papers may be allowed to see the judgment ?
2. To be referred to the Reporters or not ?
3. Whether their Lordship wish to see the fair copy of the judgment ?
6. Whether to be circulated to all Benches ?

  
(SIGNATURE)

PIYUSH/

(RESERVED)

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH, ALLAHABAD

(13)

ORIGINAL APPLICATION NO.1229 OF 1997

Allahabad, this the 29th day of July, 1999.

CORAM : Hon'ble Mr.S.Dayal, Member (A)  
Hon'ble Mr.S.K.Agrawal, Member (J)

1. Mohd.Nasim,  
S/o. Mohd.Salim,  
R/o. A-2/14, Sanchar Colony,  
Shanti Nagar,  
Kanpur.
2. Kunj Behari Sharma,  
S/o. Sri Nitya Nand Sharma,  
R/o. E/166, Panki,  
Kanpur.

.....Applicants

(By Shri A.K.Benerji, Shri Upendra Nath, Advocates)

Versus

1. Union of India through  
The Secretary Communication of India  
New Delhi.
2. The Post Master General,  
Kanpur Region, Kanpur.
3. The Senior Superintendent of R.M.S.  
Kanpur Division, Kanpur.
4. The Head Record Officer, R.M.S.  
Kanpur Division, Kanpur.

.....Respondents

(By Shri N.B. Singh, Advocate)

ORDER (Reserved)

(By Hon'ble Mr.S.K.Agrawal, Member (J) )

In this original application the applicants makes a prayer to direct the respondents to consider the name of the applicants alongwith others whos names were sponsored by the Employment Exchange against the vacant post of E.D.S.V./mail man,



2. The case of the applicant is that for three posts of E.D.S.V. in R.M.S. Kanpur a requisition dated 16-9-97 was sent to Regional Employment Exchange, Kanpur for sponsoring the names of 3 to 5 candidates for each vacancy within 30 days. Similarly for post of E.D.Mail Man at Record Office, Kanpur and 2 posts of G.P.O. Kanpur was also fallen vacant and separate requisitions were issued to Employment Exchange Officer, Kanpur Region, Kanpur for sponsiring the names of candidates. Applicants name was also registered with the Employment Exchange, Kanpur. He tried to prefer his name but his name was not sponsored. Therefore he filed the application direct to the respondents by post but it is stated by the applicants that respondents refused to consider his candidature for the post.

3. On 21-11-97 an interim order was issued -  
"If, however, the selection was made prior to the date, let the respondents consider the candidature of these applicants on provisional basis provided they fulfil all the requisite qualification and also provided they have filed their application before the last date of submission of the applications."

4. Counter was filed. It is stated in the counter that case of the applicants was not considered as per Departmental instructions as their names could not be sponsored by the Employment Exchange. It is also stated in the counter that no copy of the interim order was supplied to the respondents.

5. Heard the learned lawyer for the parties also perused the whole record. Learned lawyer the respondents Shri N.B.Singh has submitted t

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this case should also be decided on the basis of earlier decision given by this Tribunal. We have also perused our earlier decisions given in O.A.No. 830/97, dated 26-5-98 and O.A.No.837/97, dated 16-4-99. The case of the applicants is fully covered by those decisions.

6. The judgement of Apex Court as given in Excise Superintendent, Malkapatnam, Krishna District, A.P. Vs. K.B.N.Vishweshwara Rao & Others reported in 1996 (6) SCC 216 it was held -

"Having regard to the respective contentions we are of the view that the contention of the respondents is more acceptable which would be consistent with the principles of fair play, justice and equal opportunity. It is common knowledge that many a candidate is unable to have the 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 is deprived of the right to be considered for appointment to a post under the State. Better view appears to be that it should be mandatory for requisitioning Authority/Establishment to intimate the Employment Exchange and Employment Exchange should sponsor the names of the candidates to the requisitioning departments for selection strictly according to the seniority and reservation as per requisition. In addition the appropriate department or undertaking or establishment should call for the names by publication in the newspaper having wider circulation and also display on their office notice boards or announcement on Radio, Television and employment news bulletins and then consider the cases of all the



candidates who have applied. If this procedure is adopted fair play would be subserved. The quality of opportunity in the matter of employment would be available to all eligible candidates."

7. A circular was also issued dated 14-8-98 by Govt. of India, Ministry of Communication, Department of Post, copy of which has been endorsed to all concerned which is also based upon the judgement of Supreme Court in the matter of Excise Superintendent, Malkapatnam, Krishna District, A.P. Vs. K.B.N. Vishweshwara Rao & others reported in 1996 (6) SCC 216. In the circular it has been provided specifically as under :-

"It has now been decided that in respect of vacancies of EDA's excluding those where the process of recruitment through Employment Exchange/open advertisement has already commenced in addition to notifying through the Employment Exchange the vacancies shall be simultaneously notified through public advertisement and candidates nominated by the employment exchange as also those responding to the open advertisement will be considered."

8. In the instant case the applicants have submitted the applications direct within time and the name of applicants were registered with the Employment Exchange although their names were not sponsored by the Employment Exchange to the respondents due to one reason or the other, but in view of the decision of Hon'ble Supreme Court in Excise Superintendent, Malkapatnam case applicants are entitled to be considered for the post.




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9. We, <sup>are</sup> therefore, of the opinion that applicants are legally entitled to be considered for the post as mentioned above.

10. We, therefore direct the respondents to consider the candidature of the applicants for the post of E.D.S.V./Mail man, Kanpur in response to the requisition as mentioned above alongwith others strictly in accordance with the rules and thereafter result be declared by the respondents.

11. No order as to costs.

  
MEMBER (J)

  
MEMBER (A)

/satya/