

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD

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Allahabad : Dated this 26th day of May, 1998

Original Application No. 1274 of 1997

District : Aligarh

CORAM:-

Hon'ble Mr. S. Dayal, A.M.

Hon'ble Mr. S.K. Agarwal, J.M.

Horam Singh (SC),
S/o Sri Ratan Pal Singh,
1/82, Ambedkar Nagar Colony,
Naurangabad, Chhawani,
Aligarh.

(Sri KP Srivastava, Advocate)

. Applicant

Versus

1. Union of India, through the Secretary (Post), Ministry of Communication, Govt. of India, New Delhi.
2. The Assistant Superintendent of Post Offices, Central Sub Division, Aligarh-202001.

(Sri Prashant Mathur, Advocate)

. Respondents

ORDER

Hon'ble Mr. S.K. Agarwal, J.M.

In this application filed under section 19 of the Administrative Tribunals Act, 1985, the applicant has prayed that the respondents be directed to include the application of the applicant submitted by him for the selection of EDDA-III, A.M.U. P.O. Aligarh and also to consider his comparative merits alongwith other applicants sponsored by the Employment Exchange and to direct the respondents to declare the result.

2. In brief, the facts of the case as stated by the applicant are that the Assistant Superintendent of Post Offices, Central Sub-Division, Aligarh had ~~xxxxxxx~~

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notified the vacancy of EDDI-III, Aligarh Muslim University Post Office, Aligarh and ~~xxx~~ ^{called} four names of the eligible candidates from local Employment Exchange vide letter No. B/EDDA-III/ASP/97-98 dated 6-11-1997. It is submitted that the Employment Exchange did not sponsor the name of the applicant. Even none of the SC/ST candidates was sponsored. The applicant being eligible for the said post had submitted his application alongwith all required certificates and documents to the Assistant-Supt. of Post Offices, Central Sub-Division, Aligarh with the request that his application may be considered alongwith others. It is submitted that the name of the applicant was registered in the Employment Exchange, Aligarh under Registration No. 9710727 Code No. XC1-10. It is submitted that the applicant has passed High School examination in the year 1992 from Central Board of Secondary Education, Delhi and the applicant has also submitted other documents for this purpose alongwith this application but the appointing authority had intimated to the applicant vide his letter dated 6-11-1997 that the application submitted by the applicant will not be considered for recruitment and appointment for the post of EDDA-III, A.M.U. Post Office Aligarh on the ground that the name of the applicant was not sponsored by the Employment Exchange and the applicant has submitted his application directly. It is submitted that the decision of the respondents is neither rational nor ~~xxx~~ fair but is in violation of Articles 14 and 16 of the Constitution of India. Therefore, the order dated 6-11-1997 is liable to be quashed. It is, therefore requested that the respondents be directed to consider the application submitted by the applicant for the selection of

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EDDA-III, A.M.U. Post Office, Aligarh and also consider his comparative merit alongwith other candidates as sponsored by the Employment Exchange and to declare the result thereafter.

3. On 15-12-1997 this Tribunal passed an interim order directing the respondents to consider the application in view of the law laid down by the Hon'ble Supreme Court in Excise Supdt, Malikapatnam & N. Harigopal's case and it was also directed that the result of the selection may not be declared till the stay is in operation.

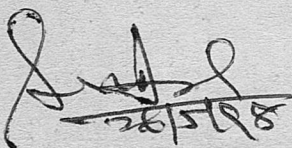
4. Counter affidavit was filed by the respondents. In the counter affidavit it was admitted by the respondents that on account of Promotion of Shri Chandra Prakash, EDDA, the post was fallen vacant and to fill up the said post, a requisition was sent to the Regional Employment Exchange, Aligarh vide Memo. dated 6-10-1997. In pursuance of the said requisition the Regional Employment Exchange Aligarh sent the list of four candidates out of which three candidates have submitted the application. It is submitted that the application of any SC candidate has not been sponsored by the Employment Exchange in pursuance of the said requisition of the department concerned, and it is also submitted that as per the instruction of the Director General Post Offices contained in the letter dated 4-9-1982, recruitment for the post of EDA were restricted with the Regional Employment Exchange. The applicant sent his application under Registered Post directly to the concerned authority and competent authority after due consideration apprised the decision to the applicant vide letter dated 6-11-1997. Therefore,

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the claim of the applicant is devoid of any merit and is liable to be dismissed. It is submitted that since the name of the applicant was not sponsored by the Employment Exchange, his application was not considered and he was informed accordingly. Therefore, on the basis of the averments made in the counter affidavit, it was submitted that the OA filed by the applicant be dismissed with costs.

5. Learned counsel for the applicant has submitted that the applicant had directly submitted the application within time specified with all necessary documents to the appointing authority and in view of the decision of the Apex Court given in Union of India and Ors Vs. N. Hargopal and Ors reported in AIR 1987 P 1227 and in the case of Excise Superintendent Malakapatnam Krishna District A. P. Vs. K.B.N. Visweshwara Rao and Ors reported in 1996 (6) SCC P-216. The respondents must have considered the candidature of the applicant alongwith others and declared the result accordingly. But the respondents did not consider the candidature of the applicant merely on the ground that his name was not sponsored by the Employment Exchange, which was not proper. Therefore, he has submitted that this Tribunal must accept the contention of the applicant and direct the respondents to consider the case of the applicant alongwith others and to declare the results.

6. On the other hand, learned counsel for the respondents has objected to these arguments advanced by the learned counsel for the applicant and contended that as per Rule 14(2) of Recruitment of E.D.As, the name sponsored by the Employment Exchange is to be considered by the appointing authority. Therefore,


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the respondents have rightly rejected the application filed by the applicant direct to the respondents. We have given our thoughtful considerations to the rival contentions of both the parties and perused the record thoroughly.

7. As per Rule 14(2) of the Recruitment of E.D.As through Employment Exchange provides as follows:-

"14(2). It has now been decided that the employment of E.D.A. should be made through the Employment Exchange. For this purpose the concerned recruiting authority should send requisition to the Local Employment Exchange having jurisdiction over the area requesting nomination of suitable candidates for the post having prescribed qualifications within a period of 30 days from the date of sending requisition to the Employment Exchange for nomination of candidates to the concerned authority."

8. On the perusal of the above Rule, it can safely be said that according to Rules the respondents shall give 30 days time to the Employment Exchange for sponsoring the required number of candidates.

9. In the case of Excise Superintendent Malkapatnam, Krishna District, A.P. Vs. K.B.N. Visweshwara Rao & Ors reported in 1996(6) SCC 216, the Hon'ble Apex Court has distinguished the case of Union of India & Ors Vs. N. Hargopal and Ors, AIR 1987, SC 2227 as under :-

"It is common knowledge that many a candidates 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 whoses 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".

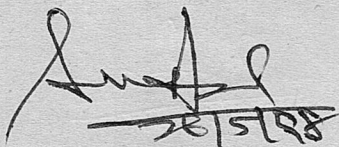
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10. On the basis of special facts of that case, it has been observed that the better course for the State would be to invite applications from Employment Exchange as well as through advertisements and also giving wide publicity through TV, Radio etc. The Court has to consider whether the persons who had applied directly and not through Employment Exchange would be considered.

11. Similar view was also taken in the case of ARUN Tewari Vs. Zila Mansavi Shikshak Sangh, AIR 1998 P. 331.

12. In the case of Union of India and Ors Vs. N. Hargopal (Supra), it was held that where the Govt. Instructions enjoin that the field of choice in the first instance be restricted to candidates sponsored by the Employment Exchange were upheld as not offending Articles 14 and 16 of the Constitution of India. In the case of Delhi Development Horticulture Employees Union Vs. Delhi Administration, Delhi, 1992 SCC P. 99 the Apex Court approved the recruitment through Employment Exchanges as a method of preventing mal-practice but in case of Excise Superintendent Malkapatnam, Krishna District, A.P. Vs. K. B. N. Visweshwara Rao & Ors (Supra) the Apex Court distinguished the case reported in 1987 (3) SSC P 308 UOI & Ors Vs. N. Hargopal & Ors on the basis of special fact of this case.

13. On the basis of above discussion, we are of the opinion that the respondents must have considered the candidature of the applicant who has filed the application direct within the time specified and his name was not sponsored by the Employment Exchange.

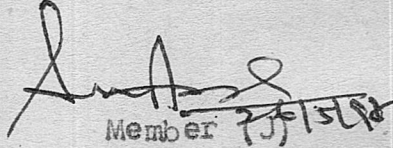

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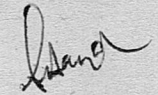
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14. The respondents have already considered the candidature of the applicant by orders of this Tribunal alongwith others. We, therefore, direct that the applicant is entitled to be considered for the post of EDDA-III, A.M.U. P.O. Aligarh in response to the requisition alongwith others strictly in accordance with rules and thereafter the result be declared by the respondents.

15. With the above directions this OA is disposed of with no order as to costs.


Member 27/1/58


Member (A)

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