

Reserved

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD

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ORIGINAL APPLICATION NO.1462 OF 1997

Allahabad, this the 29th of July, 1999.

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

Kamlendra Kumar Mishra,
S/o. Sri Janardan Prasad Mishra,
R/o. 62 C/4, Kurmin Tola,
Rajapur, Allahabad.

.....Applicant

(By Shri O.P.Gupta, Advocate)

Versus

1. Executive Engineer,
Postal Civil Division,
39/24, Stainly Road,
Allahabad.
2. Union of India through Secretary,
Ministry of Communication,
Govt.of India, New Delhi.

.....Respondents

(By Km.Sadhna Srivastava, Advocate)

ORDER (Reserved)

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

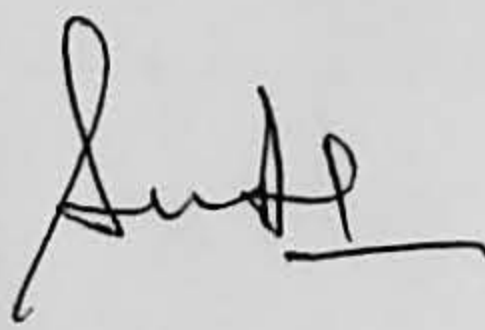
In this original application applicant makes a prayer to direct the respondents to consider the candidature of the applicant in the light of Hon 'ble Supreme Court's decision in Excise Superintendent, Malkapatnam case and to declare that applicant has a legal right for consideration of his candidature in the selection for the post of class IV in the office of respondent No.1.

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2. In brief the facts of the case as stated by the applicant are that three posts of class-IV category were vacant in the office of respondent No.1 Executive Engineer, Postal Civil Division, Allahabad for which respondent No.1 called for suitable names from Employment Exchange, Allahabad but did not advertised the post. It is stated that the applicant was having all the requisite qualifications for the post but his name was not sponsored by the Employment Exchange. As such the applicant has submitted his application directly alongwith all requisite documents on 18-11-97 to consider his application for the selection of the above post. It is stated by the applicant that his application may not be considered by the respondent No.1 as his name was not sponsored by the employment exchange, therefore, he filed this original application for the relief as mentioned above.

3. Vide interim order dated 10-2-98 it was ordered that respondent shall not fill up one post out of three posts of Peons till the interim order is considered on the next date. On 26-2-98 another interim order was given "it is provided that if selection has been made the result shall not be declared and the applicant shall also be considered for the selection if the process of selection is still continuing."



4. Counter was filed. In the counter it is stated that applicant was not entitled to be considered for the post as his name has not been sponsored by the Employment Exchange. Applicant never met the respondents for this purpose and in view of the fact that

his name has not been sponsored by the Employment Exchange he is not entitled to the relief sought for. Therefore the application is devoid of any merit and liable to be dismissed.

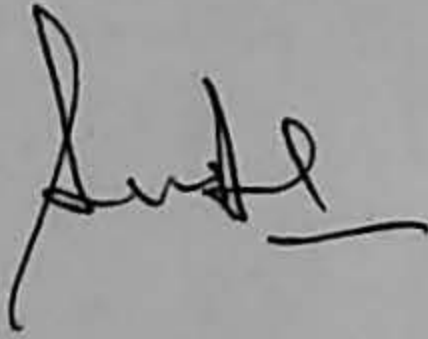
5. Rejoinder was also filed, and in the rejoinder it was reiterated that according to the decision of Hon'ble Supreme Court given in Excise Superintendent Malkapatnam case applicant has a legal right to be considered for the post.

6. Heard the learned lawyer for the parties and also perused the whole record.

7. Learned lawyer for the applicant has argued that in view of the earlier decision given by this Tribunal in O.A.No.830/97 and 837/97 the case of the applicant is also covered and may be decided in the light of those earlier decisions.

8. Learned lawyer for respondents also submits that this original application may be disposed off in the light of the earlier decisions of this Tribunal as mentioned above.

9. We have also perused the orders dated 26-5-98 given in O.A.No.830/97 and order dated 16-4-99 given in O.A.No.837/97 by this Tribunal.



10. In the instant case the applicant has submitted his application direct to the respondent No.1 and this Tribunal vide interim order has also directed the respondents to consider the candidature of the

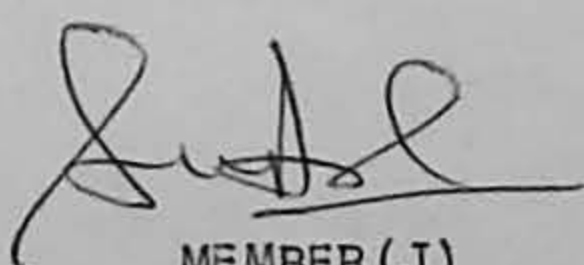
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(17)

applicant. It is also not disputed that applicant's name was registered with the Employment Exchange and was valid upto the date but his name was not sponsored by the Employment Exchange due to one reason or the other, therefore on the basis of law laid down by the apex Court in Excise Superintendent, Malkapatnam case we are of the opinion that respondents are duty bound to consider the candidature of the applicant who has filed the application direct within time although his name was not sponsored by the Employment Exchange.

11. We, therefore, declare that applicant is entitled to be considered for the post of class-IV in the office of respondent No.1 as mentioned above. We therefore direct the respondents to consider the candidature of the applicant for the post of class-IV in the office of respondent No.1 in response to the requisition as mentioned above alongwith others strictly in accordance with the rules and thereafter results be declared by the respondents. The other prayer of the applicant regarding issue of directions to respondents to delete or modify the Recruitment Rules by the respondents is not tenable, therefore, cannot be allowed.

12. No order as to costs.


MEMBER (J)


MEMBER (A)

satya/