

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Original Application No. 152/1997
Transfer Application No.

Date of decision 2.9.97

Kamlesh Prasad

Applicant(s)

Shri Sudhir Aggarwal

Counsel for the
applicant(s)

V E R S U S

UoI and others

Respondent(s)

Shri N. B. Singh for respondents

Counsel for the
respondent(s)

No 1 to 4 and Shri R. P. Singh
for respondent No 5

C O R A M :-

Hon'ble Mr. Dr. R. K. Saxena JM

Hon'ble Mr. D. S. Baweja AM

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

D. S. Baweja
(SIGNATURE)

(Pandey)

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Allahabad this the ~~1st~~^{2nd} day of September 1997.

Original Application No 152 of 1997.

Hon'ble Dr. R. K. Saxena JM.

Hon'ble Mr. D. S. Baweja AM.

Kamlesh Prasad a/a about 25 years
son of Sri Hardeo Prasad, Resident of
village and P.O. Singaha, Tehsil Basgaon
Distt Gorakhpur.

Applicant

(By Advocate Shri Sudhir Aggarwal)

Versus

1. Union of India through Secretary, Ministry of Post and Telegraph, New Delhi.
2. The Senior Supdt. of Post Offices, Gorakhpur.
3. The Director General, Postal Deptt. Dak Bhawan, Sansad Marg, New Delhi.
4. The Post Master General, Gorakhpur Region, Gorakhpur.
5. Onkar Chand s/o Ram Briskha Singh village and Post office Singaha, Distt Gorakhpur.

Respondents

(By Advocate Sri N. B. Singh for respondents No 1 - 4 and Sri R. P. Singh for respondent No 5)

ORDER

Honble Mr. D.S. Baweja

This application has been filed with a prayer to direct respondents to consider the candidature of the applicant for the post of Extra Departmental Branch Post Master Singaha along with other candidates recommended by the District Employment Exchange and also restrain respondents to consider only the candidates recommended by the District Employment Exchange.

2. The applicant has stated his case as follows. To fill up the post of Extra Departmental ~~Post~~ Branch Post Master (EDBPM) Singaha Distt. Gorakhpur, a requisition was sent by the Senior Suptd. of Post Offices (respondent No 2) to the District Employment Exchange Gorakhpur to sponsor the names of the candidates for the post. The applicant's name is also registered with the Employment Exchange but his name was not sent. Having come to know of this requisition sent to Employment Exchange, and the applicant being eligible meeting with the laid down requirements, ^{he} made a direct application vide letter dated 29/30.1.97 and ^{the same was} received in the office of respondent No 2

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However respondent No 2 has refused to consider the applicant's candidature on the ground that his name had not been sponsored by the Employment Exchange. Feeling aggrieved, the present application has been filed on 12.2.1997.

3. The main plea of the applicant is that the applicant is entitled for consideration for the selection on making direct application in terms of the law laid down by their Lordships of the Hon'ble Supreme Court in the case of 'Exercise Suptd Malkapatnam Krishna vs K. B. N. Visweswara Rao and other' (1996 vol 6 sec 216) District A.P.

The applicant avails that the action of the respondents in the face of this judgement is arbitrary, unconstitutional and violative of Article 14 & 16 of the Constitution of India.

4. The ^{official} respondents have contested the application through the counter reply. The respondents while admitting the receipt of the application directly from the applicant have asserted that as per the extant instructions, it is obligatory to call for names from the Employment Exchange and this is the basic eligibility condition. The respondents also contend that the judgement of the Hon'ble Supreme Court which has been relied upon the applicant is not applicable in the present case as the post of EDBPM is a part time job and does not require wide publicity as the recruit-

is to be done from the local candidates. In view of these facts, the respondents contend that Rules prescribed for filling up of a single post of EDBPM are not contrary to the law and there is no violation of the Article 14 and 16 of the Constitution of India as alleged by the applicant. The respondents therefore pray that the applicant is not entitled for the relief prayed for and the application ~~is~~ deserves to be dismissed.

5. A Misc application No 900/97 was moved by one Shri Onkar chandra with a prayer that he be impleaded as a respondent because his name was sponsored by the Employment Exchange and the selection process has been stopped on account of grant of interim stay order. This application was allowed and he has been impleaded as respondent No. 5. However no counter reply has been filed ^{by him} except the pleadings made in the affidavit with the impleadment application.

6. The applicant has filed ~~counter~~ ^{reponder} reply to the counter affidavit of the official respondents. He has reiterated the stand advocated by him in his original application.

7. Vide order dated 17.2.97, it was directed that the respondents will not finalise the selection although in the meantime they may

carry on with the process. This interim stay order had been extended from time to time and made valid till the pronouncement of the order.

8. We heard Shri Sudhir Aggarwal counsel for the applicant and Shri R.P. Singh counsel for the respondent No 5. None was present for the official respondents No 1 to 4 and ^{he} proceeded to hear the matter ex-parte. We have carefully considered the arguments advanced and the material brought on the record

9. From the averments of the either side, it is admitted fact that the names were invited from the Employment Exchange to fill up the vacancy of EDBPM Singaha, and the applicant's name was not included in the list of names sponsored. The applicant having come to know of this requisition, ~~submitted~~ the applicant he directly applied to the concerned authority for considering his candidature. With this position the short question that is required to be answered is whether the applicant is entitled to be considered for the selection under reference on making direct application in terms of the law laid down by the Apex Court in the judgement of Excise Superintendent Malkalathnam, Krishna District A.P. vs K.B.N. Visveshwara Rao and others (Supra). We have carefully gone through this judgement. Their Lordships of the Hon'ble Supreme Court have held that to provide fair play and equality of opportunity in the matter of employment to all eligible candidates, in addition to requisitioning names

from Employment Exchange, names should be called by publication in news papers having wide circulation and display on office notice Boards or announcement over radio, television and employment News Bulletins. Keeping in view the law laid down by the Honble Supreme Court, the applicants who apply directly are ^{thus} also entitled to be considered for selection along with those sponsored by the Employment Exchange. The plea of the respondents that the judgement of the Honble Supreme Court relates to man selection and thus is applicable to single post of ED BDM is not tenable. Any Departmental instruction in violation of the law laid down by the Honble Supreme Court are not sustainable. In fact in case of recruitment for the post of Extra Departmental Agents where local candidates are to be considered for appointment meeting with specific requirement it would be fair play and equal opportunity that all the eligible candidates of that locality are also allowed to apply along with those sponsored by the Employment Exchange. In the light of what is discussed above, the applicant is entitled to be considered for the selection along with the candidates sponsored by the Employment Exchange.

(V)

if he has made application before the due date and meets with eligibility requirements.

10. In the result of the above, we allow the application with the direction that the name of the applicant ~~will~~ be considered along with the other candidates sponsored by the Employment Exchange for the post of EDDM Singaha, District Gorakhpur if the application was submitted by the applicant on or before the due date and also eligible as per the laid down requirements. Stay order dated 17.2.97 is vacated to finalise the selection. No order as to costs.

[Signature]
Member (A)

[Signature]
Member (J)