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CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH
ALLAHABAD

DATED: THE 12TH DAY OF JANUARY 1999

CORAM: HON'BLE MR. S.L.JAIN, J.M.
HON'BLE MR. G.RAMAKRISHNAN, A.M.

ORIGINAL APPLICATION NO.599 OF 1997

Km. Anjali Saxena
Daughter of late Sri Om Babu Saxena,
Resident of 15/17, Brtamanpuri, Chowk,
Aligarh.

.... Applicant

C/A Shri R.K.Srivastava, Adv.
Shri M.K.Upadhyay, Adv.

Versus

1. Union of India, through the Secretary,
Communication Department,
New Delhi.
2. The Superintendent Bhartiya Dak Vastu
Bhandar Prapatra Sveni Mudra Aligarh/
Indian Postal Ware House Stationery and
Printing Aligarh.
4. The District Employment Officer,
Aligarh.

... Respondents

C/R Shri S.C.Tripathi, Adv.

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This is an application under section 19 of the Administrative Tribunal Act 1985 to consider the candidature of the applicant for appointment to the post of Dak Sahayak and Office Assistant along with other sponsored till date by Employment Exchange.

2. The applicant's case, in brief, is that she has passed High School in the year 1989 with Ist. Division, Intermediate Examination in the year 1991 with II Division, in the year 1994 B.Sc. with II Division and is also possessed with certificate in computer and having typing experience. She is enrolled in Employment Exchange on 2.1.1996 which is valid upto 1999.

3. In the month of May 1997 respondents nos.2 and 3 have sent their requisition to the respondent no.4 for sending the name of the candidates who were enrolled before respondent no.4 for appointment on the post of Dak Sahayak and Office Assistant. The respondent nos.2 and 3 have not advertised the post in news paper and also not given the publicity by notifying the vacancy by way of other method of communication. As the applicant who is possessed with the requisite qualification, requisite qualification being matriculation only she applied well in time for the said post.

4. The act of respondent nos.2 and 3 in not publishing the vacancy in news paper and not communicating the same by other method of communication is violative of the judgment pronounced by the Apex Court of the land, hence this O.A.

5. The respondents have not denied the qualification of the applicant, and stated that as for the general department of post, new Delhi Communication No.60-56/93-SPE/I dated 28.2.95 the vacancies were to be filled only by the candidates sponsored by the Employment Exchange, no amendment to the

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said instruction has been made. The names sponsored by the Employment Exchange are not found fit than only the vacancy can be advertised in news papers and is prayed for dismissal of the O.A. along with cost.

6. On 6.6.97 after filing the O.A. this Tribunal has ordered to the respondents is as under:-

"Till the next date we provide that the candidature of the applicant shall be provisionally considered and till the next date though the selection process may be finalised, but the name of the selected candidates shall not be declared."

The said interim order was extended from time to time upto 21.10.97. After that the ~~say~~ order was not in operative. On perusal of the R.A. and the documents annexed to it are found that the applicant was called for interview.

7. Learned counsel for the applicant relied on the judgment of the Apex Court in Excise Superintendent Malkapatnam Krishna District A.P. v. K.B.N. Bisheshwar Rao and others reported in 1996 (6) SCC P-216 for the proposition that the respondents are bound to consider the candidature of the applicant inspite of the fact that her name has not been sponsored by the Employment Exchange.

8. Executive Departmental Instructions to the effect that names should be sponsored by Employment Exchange or the earlier which was considered in the case referred above has held as under:-

"It is common knowledge that ~~many~~ ^{have} of its candidature is unable to ~~deny~~ ^{wait} the names sponsored, though their names were either registered or are ~~watching~~ to be registered in the Employment Exchange, with the result

that the choice of selection is restricted to only such candidates whose names come to be sponsored by the Employment Exchange. Under these circumstances many deserving candidates is deprived of the right to be considered for appointment to a post under State!

9. Better course is to invite application from Employment Exchange as well as through an advertisement and also give wide publicity through T.V., Radio etc. The court has to consider whether the persons who had applied directly and not through employment would be considered. Similar view was also taken in the case of Arun Tiwari v. Zila Mansavi Shikshak Sangh A.I.R. 1997 S.C. 331. The earlier view restricting the consideration to the candidates sponsored by Employment Exchange now do not prevail in view of the judgment of the Apex Court of land.

10. It is not disputed that the applicant has submitted her application direct to the respondents well in time, her name was registered with the Employment Exchange and was valid upto 1999, hence in view of the law laid down by the Apex Court of the land we are of the opinion that the respondents are duty bound to consider the candidature of the applicant along with other candidates sponsored by the Employment Exchange. The same is to be done by the respondents. The respondents have already taken over steps in the matter of selection of the said post.

11. We, therefore, direct that the applicant is entitled to be considered for the post of Dak Sahayak, Office Assistant in response to the requisition along with others strictly in accordance with rules and thereafter the result be declared by the respondents. The same view had been taken by this

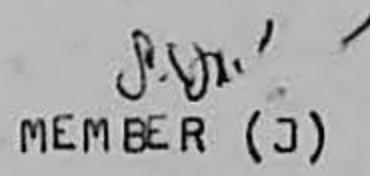
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Bench in O.A. No. 830/97, 851/97 in case of Shri Rajiv Yadav
v. Union of India and others decided on 26.5.98.

12. In the result, O.A. is allowed. Respondents are ordered to consider the candidature of the applicant for the post of Dak Sahayak and Office Assistant along with others sponsored by the Employment Exchange. Looking to the facts of the case, it is ordered that parties shall bear their own costs.



MEMBER (A)



MEMBER (J)

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