

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

ORIGINAL APPLICATION NUMBER 353 OF 1998

ALLAHABAD, THIS THE 16th DAY OF JANUARY, 2004

HON'BLE MR. V. K. MAJOTRA, V.C.
HON'BLE MRS. MEERA CHHIBBER, J.M.

Chandrika Prasad,
son of Shri Muneshwar Prasad,
resident of Village Jasanpur, Post Dhani,
Baisar -District-Mahrajganj.

....Applicant

(By Advocate : Shri M.K. Upadhyay)

V E R S U S

1. Union of India through the Chief Post
Master General, U.P. Circle, Lucknow.

2. Superintendent of Post Offices,
Corakhpur Division, Corakhpur.

3. Sub-Divisional Inspector (Post),
Anand Nagar, Division, District-Mahrajganj.

4. Sanjai Kumar Mishra, Vill. & Post
Dhani -Dhala, Dist.Mahrajganj.Respondents

(By Advocate : Shri S. Chaturvedi
Shri A.K. Sinha)

O R D E R

By Hon'ble Mrs. Meera Chhibber, J.M.

By this O.A. applicant has sought the quashing of the
appointment of respondent No.4 Shri Sanjay Kumar Mishra to the post
of E.D Packer & to consider his candidature for the said post. It is submitted
by the applicant that his name was registered with employment
exchange on 06.01.1998. In Feb 1998 a letter was written giving
the requisition to the employment exchange for sponsoring the
names of candidates for the post of E.D. Packer, Dhani.

Pursuant to which he also applied, as his name was not sponsored by the Employment Exchange even though other candidates were sponsored by the employment exchange. He has further submitted that he fulfills all the requisite qualifications and is eligible for consideration for the post of E.D. Packer, Dhani. on regular basis. His application dated 07.02.1998 is annexed as Annexure A-2. It is submitted by the applicant that he was not considered by the respondents even though as per the judgment given by the Hon'ble Supreme Court, respondents were required to consider the applications from open market as well. It is submitted by the applicant that respondents could not have considered only those candidates, who were sponsored by the Employment Exchange only in view of the judgment given by the Hon'ble Supreme Court in the case of Excise Superintendent Malkapatanam Krishna District A.P. Versus K.B.N. Visweshwara Rao and others reported in 1996 SCC (L&S)1420. He has thus prayed for the following reliefs as mentioned above.

2. Respondents on the other hand have opposed this O.A. They have submitted that the selection process was completed much before filing of the present petition and appointment orders was also issued before the filing of the petition. They have further submitted that since 5 names had already been sponsored by the employment exchange including Shri Sanjai Kumar Mishra, ^{they} ~~who~~ were called upon to give their application whereafter 3 candidates gave their applications and on verification report from the mail O/S Anand Nagar, Superintendent of Police Maharajganj and District Inspector of School Mahranganj in respect of educational qualifications, Since Shri Sanjay Kumar Mishra was found to be more meritorious, ~~thee~~ was appointed as E.D. Packer Dhani vide letter dated 17.04.1998. They have further submitted that petitioner did not apply for the said



post nor his application was received in the office of the answering respondents. Therefore, the question of not considering his candidature does not arise.

3. In rejoinder, applicant submitted that this post should have been reserved for the S.C. community as it was vacated by scheduled caste candidate, who further reiterated that he had filed the application, which was stated to be evident by U.P.C. sent on 07.03.1998 and said to have annexed as Annexure RA-I (No such RA-I was annexed with the rejoinder).

4. The C.A. was heard on 10.12.2003 when the bench had given liberty to the applicant to place the evidence to show that he had indeed applied for the said post. But inspite of the said opportunity, the applicant did not file any evidence on record. Today when the matter was called out, counsel for the applicant produced a photocopy of some U.P.C. but perusal of same showed that the stamp affixed on the so-called U.P.C. was totally smudged & scratched ¹⁸ ~~smashed~~ out. It is also seen that Annexure A-2 which is said to be the application alleged to have been given by the applicant nowhere shows that it was sent through U.P.C. nor it had any acknowledgement. Therefore, we can easily say that applicant has not been able to prove to our satisfaction that he had indeed given the application ^{to} ~~with~~ the authorities for consideration for the post of E.D. Packer. Even otherwise, it would be relevant to quote A.I.R. 1994 supreme Court pg.678 wherein Hon'ble Supreme Court held that U.P.C. is easy to procure and does not inspire confidence ^{has} ~~evidence~~, therefore it is not believable.

5. In view of the above discussion, we are satisfied that no case has been made out for interference by this Tribunal. When



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applicant had not even applied for the post of E.D. Packer, the question of his not being considered does not really arise. We therefore, find no merit in the O.A. the same is accordingly dismissed. No order as to costs.



Member (J)

V.K. Majah

Vice-Chairman

shukla/-