

OPEN

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL : ALLAHABAD BENCH
ALLAHABAD

Dated: ALLJ. on this 21st Day of July, 98.

CORAM: HON'BLE MR S DAYAL, A.M.
HON'BLE MR S L JAIN, J.M.
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ORIGINAL APPLICATION NO.69 OF 1998.

Meenendra Singh, S/o Shri Tilak Singh
aged about 21 years, R/o Village -
Puraiya, P.O. Jaga, District: Mainpuri

.... Applicant

C/A Shri K K Mishra

Versus

1. Union of India through
Director General Post Offices
New Delhi
2. The Post Master General
Agra
3. The Sr Superintendent of Post Offices
Mainpuri
4. The Inspector of Post Offices
Mainpuri
5. The Employment Exchange Officer
Mainpuri

.... Respondents

C/R Km Sadhana Srivastava

O R D E R

(By Hon'ble Mr S Dayal, A.M.)

This application has been filed under section 19
of Administrative Tribunals Act, 1985 in which applicant
has sought direction to the respondents to consider him
for regular appointment to the post of Extra Departmental
Delivery Agent (EDDA) giving him due weightage for his work

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as E.D.D.A. although his name has not been sponsored by the Employment Exchange. There is a further prayer of the applicant that the respondents be directed to consider him for regular appointment on the basis of the application submitted by him if he fulfils all the criteria.

2. The facts mentioned in the application are that the applicant was working as E.D.D.A. Joga Post Office from 01.01.97 onwards on provisional basis as the incumbent Shri Ram Narain was appointed as Branch Post Master. The respondents sent a requisition to the Employment Exchange for sponsoring minimum three and maximum five candidates as per the qualifications mentioned in the requisition. In response to the requisition, Employment Exchange made submissions of five names of candidates which belong to Schedule Caste category. Applicant claims that he was also registered with the Employment Exchange and his registration Number is 154 of 1996 but his name was not sponsored. The applicant had challenged the selection process undertaken by respondents and sought an interim direction to the respondents to allow the applicant to be considered for regular appointment to the post of EDDA, Joga. This interim relief was allowed and the applicant is still continuing as EDDA, Joga.

3. The arguments of Shri K K Mishra, learned counsel for the applicant and Km Sadhana Srivastava, learned counsel for the respondents, have been heard and pleadings on record have been taken into account.

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4. The respondents had sought vacation of ex parte stay order by means of Misc application No. 991/98 which came up for consideration today. Since the pleadings in this case are complete, case is finally heard.

5. The respondents have mentioned in their counter affidavit that the candidature of the applicant was also considered although he was not sponsored by the Employment Exchange, Mainpuri. He is found to be lower in merit on the basis of marks in High School Examination and another candidate was found to be most suitable candidates among all the five candidates including the applicant who were considered. Since the applicant's prayer was for consideration, the fact that his name has been considered by the respondents, is adequate for dismissing this application.

6. However, the learned counsel for the applicant has pleaded certain other grounds for not dismissing this application. This is that his candidature has not actually been considered because firstly Employment Exchange has sponsored only SC candidates, although the requisition was not sent for sponsoring only SC candidates. Only preference was to be given to SC, ST & OBC candidates as per the standing orders. This is not a valid ground for challenging the submission of the Employment Exchange. The submissions appear to be made on the basis of seniority and the five names sent by the Employment Exchange were of those who were registered from 1993 to 1995 whereas the applicant's registration on his admission is of 1996. Hence his name could

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not be sponsored by the Employment Exchange although his name was registered there. Applicant has also claimed that he was the most suitable candidate for selection as E.O.D.A. because he has already worked about a year on the post. It is again admitted in the application that the applicant had worked on provisional basis against a vacancy which has fortuitously occurred because of promotion of Shri Ram Narain. This does not confer on the applicant any more right than that he should have been considered for the post which was already allowed by the Tribunal as interim relief.

7. Learned counsel for the applicant has also alleged that the respondents had considered the candidature of the applicant with a closed mind. He has referred to comparative chart showing particulars of the applicant which is annexed to the CA in which it has been mentioned that the applicant could not be selected as his name was not received by Employment Exchange but he was having lowest percentage of marks. Learned counsel for the respondents has mentioned that rule required for consideration of candidates who have been sponsored by Employment Exchange only. However, in view of the interim directions given by the Tribunal, candidature of the applicant was considered but he could not be considered most suitable because of his academic record. Learned counsel for the respondents also stated that the applicant has not challenged the rules which ~~require~~ require the

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candidature to be sponsored by the Employment Exchange.

In any case, this does not negate the fact that the candidature of the applicant has been considered and that there were persons with better qualifications available. Therefore, malafides are not established.

8. Learned counsel for the applicant has mentioned that the minimum educational qualifications for the post of E.D.O.A. are standard VIII only while the marks obtained by the candidates in High School Examination i.e. Class VIII have been considered. The requisition sent to the Employment Exchange mentions that the candidates should be at least VIII class pass but High School Pass were to be preferred. It is clear from the comparison of the marks obtained by various candidates as shown in the comparative chart that Shri Satya Pal Singh received the highest percentage in the High School, and, in the absence of marks of these candidates in VIII class, he had been found ^{to be most suitable. No} the exception, can be taken to this forming a basis of selection. In any case the O.A. was filed by the applicant not for challenging selection but for being permitted to be considered. In any view of the matter the contention of the applicant that he should have been appointed to the post cannot be accepted and the O.A. is dismissed. There shall be no order as to cost.

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J.M.

A.M.