(Reserved)

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH, ALLAHABAD

ORIGINAL APPLICATION NO.821 OF 1998

Allahabad, this the 28th day of July, 1999.

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

Kameshwar Prasad Pandey,
S/o. Shri Bhrahm Prasad Pandey,
R/o. Village- Harro (Ganne),
P.O. Kherhat Khurd,
Distt.Allahabad.

..... Applicant

(By Shri Rakesh Verma, Advocate)

Versus

1. Union of India through the Secretary, Ministry of Communication, New Delhi.
2. Sub Divisional Inspector of Posts, Meja Sub Division, Allahabad.

.....Respondents

(By Shri Amit Sthalekar, Advocate)

O R D E R (Reserved)

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

In this original application the applicant makes a prayer to direct the respondents to consider the candidature of the applicant for the post of E.D.D.A. Harro (Ganne), Kherhat Khurd, District Allahabad.

2. In brief the facts of the case as stated by the applicant are that respondent No.2 vide requisition dated 26-6-98 requested to sponsore names of 5 persons

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to Employment Exchange Officer, Allahabad. It is stated that the name of the applicant was not sponsored although registered with the Employment Exhcnage, Allahabad. Therefore applicant sent the application direct to respondent No.2 by registered post on 3-8-98 alongwith all necessary certificates/documents,and therefore applicant has a right to be considered. But it is the contention of the applicant that respondent has refused to consider his name for the post on the ground that his name has not been sponsored by the Employment Exchange.

3. Vide interim order dated 10-8-98 this Tribunal has directed the respondents to consider the candidature of the applicant if his application is received in time for the post of E.D.D.A.

4. Counter was filed.

5. Heard the learned lawyer for the parties and perused the whole record.

6. Learned lawyer for respondents during the course of arguements admits that the candidature of the applicant has been considered by the respondents as the applicant was eligible for the post and his application was within the time.

7. The judgement of Apex Court as given in Excise Superintendent, Malkapatnam Krishna District, A.P. Vs. K.B.N.Vishweshwara Rao & others reported in 1996 (6) SCC 216 it was held -

> "Having regard to the respective contentions we are of the view that the contention of the respondents is more acceptable which would be consistent with the principles of fair play,

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justice and equal opportunity. It is common knowledge that many a candidate is unable to have the names sponsored, though their names are either registered or are waiting to be registered in the Employment Exchange with the result that the choice of selection is restricted to only such of the candidates whose names come to be sponsored by the Employment Exchange. Under these circumstances many a deserving candidate is deprived of the right to be considered for appointment to a post under the State. Better view appears to be that it should be mandatory for requisitioning Authority/Establishment to intimate the Employment Exchange and Employment Exchange should sponsor the names of the candidates to the requisitioning departments for selection strictly according to the seniority and reservation as per requisition. In additional the appropriate department or undertaking or establishment should call for the names by publication in the newspaper having wider circulation and also display on their office notice boards or announcement on Radio, Television and employment news bulletins and then consider the cases of all the candidates who have applied. If this procedure is adopted fair play would be subserved. The quality of opportunity in the matter of employment would be available to all eligible candidates."

8. A circular was also issued dated 14-8-98 by Govt.of India, Ministry of Communication, Department of Post, copy of which has been endorsed to all concerned which is also based upon the judgement of Supreme Court in the matter of Excise Superintendent, Malkapatnam Krishna District, A.P. Vs. K.B.N.Vishweshwara Rao & Others reported in 1996 (6) SCC 216. In the circular it has been provided specifically as under :-

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"It has now been decided that in respect of vacancies of EDA's excluding those where the process of recruitment through Employment Exchange/open advertisement has already commenced in addition to notifying through the Employment Exchange the vacancies shall be simultaneously notified through public advertisement and candidates nominated by the Employment Exchange as also those responding to the open advertisement will be considered."

9. In the instant case the applicant has submitted his application direct to the respondents, although his name was not sponsored by the Employment Exchange, but in view of the law laid down by Hon'ble Supreme Court of India in Excise Superintendent, Malkapatnam case the applicant is entitle to be considered for the post although his name was not sponsored by the Employment Exchange.

10. The respondents have already considered the candidature of the applicant by the orders of this Tribunal dated 10-8-98. We, therefore direct that applicant is entitled to be considered for the post of E.D.D.A. Kherhat Khurd, Distt.Allahabad in response to the requisition alongwith others strictly in accordance with the rules and thereafter the result be declared by the respondents.

11. With the above directions this original application is disposed off with no order as to costs.

MEMBER (J) MEMBER (A)

SATYA