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CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH

O.A. No. 174/1988

Allahabad, this the 10th day of July, 1994

(6)

HON. MR. JUSTICE B.C. SAKSENA, V.C.

HON. MR. K. MUTHU KUMAR, A.M.

Hare Ram Pandey and 7 others

Applicants

versus

1. Union of India through Director General of Posts,
New Delhi.

2. Post Master General Uttar Pradesh, Lucknow.

3. Superintendent of Post offices, Balia Division,
Balia.

4. Nanha Prasad approved RTP-PA Rasara Head Office,
District Balia.

5. Hari Saran approved RTP-P.A. Rasara Head Office,
District Balia.

Respondents.

ORDER

HON. MR. JUSTICE B.C. SAKSENA, V.C.

When the case was called out, the learned counsel for the applicant had not appeared, nor was there any request for adjournment. We accordingly heard the Additional Standing Counsel representing the respondents and orders were reserved.

2. By this O.A. the applicants have, interalia, preferred the following reliefs:

i) Order dated 14.12.87 passed by the respondent No. 3 relieving the petitioners from service vide Memo No. E-1/Budget 1987-88 be set aside.

ii) to command the respondents to grant approval of the services of the petitioners.

3. The case in short, as set out in the O.A. is

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that in response to the advertisement made in Rozgar Digest dated 14.11.82 issued by the Post Master General U.P. Lucknow for selection of Postal Assistant and Sorting Assistants vide advertisement No. 3/82, the applicants had submitted their candidature for consideration of appointment on the said posts. Total number of 29 candidates were to be selected for District Balia. 18 posts were meant for General candidates and 6 for Reserved categories, viz. Scheduled Caste and one Scheduled Tribe, 3 for Ex army Personnel and one for Physically Handicapped candidates. The applicants were selected for appointment as Reserved Trained Pool Postal Assistants in different Post Offices in District Balia. They underwent training and on successful completion of their training, were attached with different post offices in District Balia by orders of the respondent No. 3. The petitioners continued to work as Postal Assistants till 18.12.87.

4. The grievance of the applicant is that in spite of the applicants having rendered service for a number of years the authorities had not approved the appointment of the applicants. They further allege that they had been discriminated by the authorities inasmuch as they approved the appointment of only 4 RTP-PA who were selected alongwith petitioners. They have also raised grievance that against this reserved category respondents 4 and 5 have only been approved.

5. The detailed counter affidavit has been filed on behalf of official respondents. The case set out in the counter affidavit is that scheme to constitute Reserved Trained Pool of Postal Assistants was brought in vogue by the department in the year 1981.

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According to the D.G., P&T communication dated 30.10.80 the strength of RTP-PA was proposed to be equal to 15 per cent of the regular staff. Accordingly 29 posts of RTP were declared vacant in the division for the second half of 1982 for which an advertisement was issued on 14.11.82. The averments of the applicants that they had qualified as also successfully completed their training is not disputed. The respondents' case is that such selected candidates in RTP were required to work as short duty staff at the rate of Rs 2.75 per our till regular absorption, and their regular absorption was to be considered within five years. It is further averred in the counter affidavit that out of 29 candidates who were selected, 11 were appointed elsewhere or withdrew themselves from being appointed. Thus, remaining 18 remained in the list of candidates who were deployed according to their continuous service as and when vacancies became available on account of shortage of regular staff or increasing work. In the year 1985, a ban was imposed ~~was imposed~~ by the government which resulted in non creation ^{Recd} of these posts. In the same year, it is alleged, on account of implementation of one time-bound promotion in the cadre of PAs 5% of the existing staff were reduced which caused abolition of posts of PAs with the result that 10 posts of PAs were declared surplus in the division and were adjusted towards the vacancies occurred on account of retirement or death in the subsequent years. It is stated that for the above reasons RTP candidates could not be engaged on regular basis before the year 1987.

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6. The further case set out in the Counter affidavit is that in the month of October, 1987 vacancy position in the P.A. cadre were again examined and 4 posts were found to be available due to retirement and these posts were filled up by the senior most candidates of the RTP belonging to S.C. and two senior most candidates of O.C. It has been averred that 14 candidates are still on the list of candidates who are to be engaged as and when vacancies in Postal cadre occur. Their names have been given in detail in paragraph 9 of the Counter. In 1987, it is alleged that due to large amount of expenditure being incurred on account of payment of wages to short duty staff for budgetary reasons, expenditure under the head 'Wages' had overcome allotment of fund under the head and therefore, it was directed that the RTP be spared who were working in the office of P.N. Balia and Rasara. In paragraph 17 it has been indicated that the plaintiff will also be appointed on regular posts on occurrence of vacancies in future. No permanent vacancy on regular basis has occurred, therefore, it is alleged that the relief sought by the petitioners cannot be granted.

7. No Rejoinder Affidavit has been filed by the applicant. That being so, the averments in the Counter Affidavit remained uncontroverted.

8. The respondents have fairly explained the position and have also, as noted hereinabove given assurance in their counter affidavit that as and when permanent vacancy on regular basis of P.A. becomes available, the applicant shall be absorbed according to their merit position.

9. We, therefore, are of the opinion that the applicants have failed to make out any case for

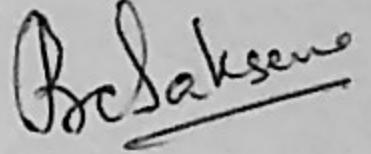
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setting aside the order dated 14.12.87 relieving the petitioners from service. In the light of the facts given in the counter affidavit and which the applicants have not controverted, it is not possible to grant other relief prayed for by the applicant viz. a direction to the respondents to grant approval of the services of the applicant. The only relief which in the facts and circumstances can be granted to the applicant is on the basis of assurance set out in the Counter affidavit. The respondents are accordingly directed to consider the question of re-engagement and appointment of the applicants according to their merit position in the list of ERTP-PA District Balia against permanent vacancies as and when same become available.

10. O.A. is disposed of subject to the directions given hereinabove. There will be no order as to costs.


ADMN. MEMBER.


VICE CHAIRMAN.

Date 18.7.94