

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD

O.A. No. 19 Of 1990  
Petitioner

DATE OF DECISION February 20, 1991

Ashok Singh Petitioner

Shri A.V. Srivastava Advocate for the Petitioner(s)

Versus

Union of India and ors Respondent

Shri K.C. Sinha Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. J.P. Sharma, J.M.

The Hon'ble Maj. Gen. A.B. Gorthi, A.M.

1. Whether Reporters of local papers may be allowed to see the judgment ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgment ?
4. Whether to be circulated to all other Benches ?

Ghanshyam/

Deo

Magd

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

.....

Registration O.A. No. 19 of 1990

Ashok Singh .... Applicant

versus

Union of India and others .... Respondents

Hon' J.P. Sharma, J.M.

Hon' (Maj. Gen) A.B. Gorthi, A.M.

(By Hon' (Maj. Gen) A.B. Gorthi, A.M.)

This is an application under section 19 of the Administrative Tribunals' Act, 1985, from an un-employed graduate named Ashok Singh, alleging discrimination on the part of the Regional Employment Officer, Employment Exchange, Pratapgarh (Respondent no.3) who had refused to sponsor the name of the applicant for the post of an Extra Departmental Sub Post Master.

2. The undisputed facts of the case are that a post of Extra Departmental Sub Post Master at Sansarpur, District Pratapgarh fell vacant on 4-7-89; that the Senior Superintendent of Post Offices, Pratapgarh (Respondent no.2) asked the Regional Employment Officer (Respondent no.3) to sponsor the names of suitable candidates for the said post and that respondent no.3 sponsored 7 candidates, but not the applicant, for the said post. It is common ground that educational qualification for the said post as specified in Annexure-II was "VIII standard (Matriculates will be preferred)." It is also not disputed that the applicant was eligible in all other respects/except that he was a graduate. It was precisely on this ground of over-qualification that respondent no.3 took a deliberate decision, not to

*Ansar*

sponsor the name of the applicant to respondent no.2. The candidates who were sponsored for selection were either Matriculates or those who passed Intermediate examination. No graduate's name figures in the list, which is at Annexure-I to the counter affidavit filed by the respondents 1 and 2.

3. The main challenge raised by the applicant is that the action of respondent no.2 in not sponsoring his name merely because he was a graduate is discriminatory and hence illegal. In reply, the respondent no.3 relied on para 9.15 of the National Employment Services Manual Vol.I (Annexure-I to the counter affidavit filed by the respondent no.3), which is reproduced below:

" 9.15 The applicant considered best suitable on the basis of merit and suitability need not necessarily be the one who is most highly qualified academically, though often he may be. Referral of a highly qualified applicant against a vacancy which generally does not require that high level of education or skill may, at times, result in unsatisfactory and unstable placement. By under estimating the capacity of an applicant well qualified for a much better job, the applicant and the employer will neither be well served nor well adjusted for a continuing and satisfying relationship. "

4. The <sup>L</sup> ~~short~~ <sup>but</sup> crucial question raised before us is whether the aforesaid guide-lines laid-down by the Government are discriminatory and violative of Article 16 of the Constitution of India. On this aspect, we have heard at length the arguments elaborately put forward by the applicant's counsel in the reply by the respondents' counsel.

5. Equality of opportunity admits discrimination with reasons, but prohibits discrimination without reason. The test that has been consistently applied by the Courts in this country since the commencement of the Constitution is whether the classification is founded on an intelligible differentia which distinguished certain persons or things that are grouped together and that differentia must have a rational relation to the object sought to be achieved.

6. The job of E.D. Sub Post Master is one that can be handled by a candidate with an educational elevation up to VIII standard, although Matriculates may be preferred. When the requirement is such, will respondent no.3 be justified in sending the names of graduates and post graduates for the said post? We must bear in mind that Employment Exchange is an agency established to assist the Government by sponsoring suitable candidates to fill up the vacancies in the various wings of the government. The responsibility to decide who the "suitable candidates" are for a particular post rests on the Employment Exchange Officer. He, in turns, cannot afford to ignore the Government's instructions on the subject unless they happen to be un-constitutional or otherwise illegal. There is no doubt that had the applicant's name been sponsored in violation of the guidelines contained in para 9.15 of the Manual afore-mentioned, several other similarly placed graduates and even post graduates would have found their names in the said list. The applicant could have been said to be wronged had he not been sponsored for a post for which an academic degree is an essential requirement or had respondent no.<sup>3</sup>

sponsored the names of other graduates but not his for the post, as in either case it would have offended the principle of equality as enshrined in Article 16 of the Constitution.

7. We are of the considered view that the government instructions as contained in para 9.15 of the National Employment Services Manual Vol.I cannot be said to be unfair to any particular category of candidates or unconstitutional on the ground of being discriminatory. We, therefore, dismiss this application and vacate the interim order passed on 17-1-90 and extended from time to time. Parties to bear their own costs.

*Ansari*  
MEMBER (A)

(sns)

*Jomai*  
MEMBER (J)

February 22, 1991.

Allahabad.