

THE CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH ALLAHABAD.

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Original Application No.54 of 1992

Bharat Jee

... Applicant.

Versus

Union of India & others

... Respondents.

Hon'ble Mr. Maharej Din -Member(J)  
Hon'ble Miss Usha Sen -Member(A)

(HON'BLE MISS USHA SEN- A.M.)

The counsel for the parties were heard.

The relevant facts of the case are as below:

The name of the applicant alongwith other names was sponsored by the Employment Exchange for recruitment for the posts of Switch Board Attendants(SBA) in the office of the Command & Works Engineer, Kanpur, under the Ministry of Defence. The test and interview of the applicant was held on 13-3-1984. He did not qualify in this test. The Employment Exchange is stated to have been informed of the result. However, the posts of S B A were not filled up as a ban <sup>on</sup> recruitment was imposed in the meantime, by the Govt.

During July 1987 sanction for recruitment to one post of peon and one post of Chaukidar was issued. Names were called from the Employment Exchange(EE) on 17-7-1987 for filling up these posts. The respondents interviewed the candidates sponsored by the Employment Exchange alongwith the applicant and one Shri S.K. Shukla who had appealed for consideration of their candidature for a lower post on the basis of their names having been sponsored by the Employment Exchange earlier in 1983 for the higher post of SBA. As a result of this interview held on 10-11-87 and 12-11-87 Shri S K. Shukla was appointed to the post of peon. The applicant and Shri S.K. Shukla did not appear in the interview for the post of Chaukidar. ~~As a result of interview~~

Shri S.K.Shukla was appointed in the post of peon. He ranked no.1 in the merit list, and the applicant ranked no.2. The number of vacancies was only one. As regards the post of Chaukidar, one Shri R.K.Pathak, whose name had been earlier sponsored by the Employment Exchange in 1983 for the post of Oil Engine Driver on a casual basis, was interviewed along with other candidates sponsored specially for the post of Chaukidar in 1987 by the Employment Exchange in response to the requisition sent by the respondents on 17-7-87 as mentioned above. Consequent to this interview Shri R.K.Pathak was appointed to the post of Chaukidar being placed at Sl.No.1 in the merit list.

The applicant was informed by the respondent no.2 vide the letter dated 17-12-1988(Annexure A-10) that he was not considered for the post of peon, the interview for which was held in 1987, as he was over-aged by them. He was later informed vide the letter dated 10-10-91(Annexure A-13) of respondent no.2 that his case had been referred to the superior authority viz. respondent no.4 who had stated that the applicant should not have been interviewed for the post of peon as his name had not been sponsored by the Employment Exchange for this particular post.

The applicant has pleaded that as he was within the age limit when his name was first sponsored by the Employment Exchange in 1983 for the post of SBA he should not be rejected on the ground of being overaged. He has sought the relief that he should be appointed to the post of peon on the basis of the interview held on 10-11-87.

The respondents have resisted the claim of the applicant on the grounds that firstly, he ranked lower than Shri S.K.Shukla in the merit list for recruitment to the post of peon; secondly, there was only one post of peon available; thirdly, he was also overaged by then while Shri S.K.Shukla and Shri R.K.Pathak who

were also considered on the basis of their names having been sponsored by the Employment Exchange in 1983 for different posts, were within the age limit for recruitment to the post of peon and Chaukidar the interviews for which were held in 1987. They have however admitted in para-8 of their counter affidavit that Shri S.K.Shukla and Shri R.K.Pathak should not have been called for interview for the post of peon and Chaukidar on the basis of their names having been sponsored by the Employment Exchange in 1983.

Having heard all these arguments the counsel for the applicant stated in the court that the applicant may at least be given the relief of consideration of his candidature for recruitment to any suitable post which may be vacant now and that he should not be rejected on the grounds of being overaged.

Our examination of the case reveals that the interview of all the three persons, viz. Shri S.K.Shukla, R.K.Pathak and the applicant in November 1987 for the posts of peon/choukidar on the basis of the sponsorship of their names by the Employment Exchange in 1983 for different posts was wrong and not in accordance with the prescribed rules. This has been admitted by the respondents. The applicant had the added disadvantage of being overaged when this interview in November 1987 was held, while the other two were within the age limit. Shri S.K.Shukla was higher in merit than the applicant in the interview for the post of peon. These two did not appear in the interview for the post of Chaukidar. Lastly the number of vacancies for the post of peon was only one. Considering these facts we are unable to grant the relief sought for by the applicant in the O.A. to direct the respondents to appoint him in the post of peon. He can, however, be considered for appointment in any suitable vacancy in accordance with the prescribed rules and we deem it fit to

direct the respondents <sup>to</sup> so consider him. With this  
direction the O.M. is disposed of. No order as to cost.

*Usha Devi*  
MEMBER(A)

*Chhaya*  
MEMBER(J)

DATED: Allahabad, March 24, 1994.  
(IS PS)

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