

CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

O.A.NO. 296 OF 1990.
~~**P.A.NO.**~~

DATE OF DECISION 2.9.1997

Sanghani Shivji Ralanji Petitioner

Mr. B.B. Gogia, Advocate for the Petitioner [s]
Versus

Union of India & Ors. Respondent s

Mr. Akil Kureshi, Advocate for the Respondent [s]

CORAM

The Hon'ble Mr. V. Ramakrishnan, Vice Chairman.

The Hon'ble Mr. T.N. Bhat, Judicial Member.

JUDGMENT

- 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 it needs to be circulated to other Benches of the Tribunal ? ✓

Sanghani Shivji Ralanji
Village Jabalpur
Tankara P.O.
Morvi Taluka
Rajkot District.

.... Applicant.

(Advocate: Mr.B.B. Gogia)

Versus

1. Union of India
Through: Secretary
Department of posts,
New Delhi.
2. Sr.Supt. of posts,
Rajkot Division,
Rajkot.
3. Vasantlal Bhagwanji
Village Jabalpur,
Tankara P.O.
Rajkot Dist.

..... Respondents.

(Advocate: Mr. Akil Kureshi)

ORAL ORDER

O.A.NO. 296 OF 1990

Date: 2.9.1997

Per: Hon'ble Mr. V. Ramakrishnan, Vice Chairman.

The applicant, who was given provisional appointment as EDBPM Jabalpur against a regular vacancy with effect from 1.2.89, has prayed for a direction to the respondents to consider him for regular appointment and to restrain them from terminating his services. The Tribunal as an interim measure directed the respondents by its order dated 17.7.90 to maintain status quo as on that date. We are informed that in the light of this order the applicant is continuing in the position of EDBPM.

2. We have heard Mr. Gogia for the applicant and Mr. Akil Kureshi for the respondents.

3. The applicant was appointed on a provisional basis as EDBPM with effect from 1.2.89 when the regular incumbent was transferred on promotion. The Department seems to have taken some steps later to fill the post on regular basis. The applicant came to know some time in 1990 that one Shri Vasantlal Bhagwanji, Respondent No.3, was likely to be appointed in his place, since the names were called for from the Employment Exchange. The respondent No.3 was duly served but has remained absent all these years and he has neither appeared in person nor engaged any advocate.

4. We find that the Department had not given regular appointment to the applicant as his name was not sponsored by Employment Exchange. The applicant says that he has got his name registered in the Employment Exchange. We are told that three names were sponsored and the applicant was not one of them. We are not aware as to why the Employment Exchange has not sponsored his name. We note that the Department also takes recourse to local advertisement in some cases where the adequate number of names are not sponsored by the Employment Exchange. We also find the Hon'ble Supreme Court in the case of Excise Superintendent Malkapatnam, Krishna District, A.P. V/s. K.B.N. Visweshwara Rao and Ors., (1996) 6 SCC 216 had held that restricting the selection only to the candidates sponsored by Employment Exchange is not proper. We may reproduce the Head Note as under;

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"Service Law - Employment Exchange (Compulsory Notification of vacancies) Act, 1959 - S.4(1) restricting the selection only to the candidates sponsored by employment exchange - Held, not proper - In addition to requisitioning the names from employment exchange, names should also be called for by publication in newspapers, having wide circulation, and display an office notice boards or announcement on radio, television and employment news bulletins - Such a procedure would subserve fairplay - Constitution of India, Arts. 14 and 16 - Labour Law".


5. In the light of this position, we hold that it is not correct on the part of the Department to omit to consider the applicant for regular appointment to the post solely on the ground that he was not sponsored by the Employment Exchange. We also note that in view of the interim order passed by the Tribunal the applicant is continuing in the post from July 1990 and he had been holding the post for the last more than seven years in addition to the period of about 17 months prior to the issue of the interim direction. In the facts of the case we hold that in the interest of justice the Department shall re-do the exercise of regular selection and consider the applicant in that selection along with other eligible candidates and appoint the ^{most} ~~best~~ suitable candidate for the post keeping in view the relevant rules and instruction governing such appointment. We direct accordingly. We further direct that till this process is completed the service


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of the applicant shall not be terminated.

6. The O.A. is finally disposed of as above.

No order as to costs.


(T.N. Bhat)
Member (J)


(V. Ramakrishnan)
Vice Chairman

vtc.