

**CENTRAL ADMINISTRATIVE TRIBUNAL**  
**AHMEDABAD BENCH**

(14)

**O.A.NO.** 63/91  
**T.A.NO.**

DATE OF DECISION 28.11.1997

Jivraj Shivrul Fultariya Petitioner

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

Versus

Union of India & ors. Respondent

Mr.Akil Kureshi Advocate for the Respondent [s]

CORAM

The Hon'ble Mr. V. Ramakrishnan

Vice Chairman

The Hon'ble Mr. P.C. Kannan

Member (J)

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 ? ~

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Jivraj Shivilal Fultariya  
 Add: Bodki-363 660  
 Via: Mota Dahisara,  
 Taluka: Maliya Miyana,  
 Dist: Rajkot.

Applicant

Advocate Mr.B.B.Gogia

versus

1. Union of India,  
 Through : Secretary,  
 Department of Posts,  
 New Delhi.
2. Sr.Suptd. of Posts,  
 Rajkot Division,  
 Rajkot.
3. DhanjiDabhi,  
 Bodki-363 660  
 Via : Mota Dahisara,  
 Tal : Maliya Miyana,  
 Dist: Rajkot

Respondents

Advocate Mr.Akil Kureshi

ORAL ORDER

O.A.63/91

Date: 28.11.997

Per Hon'ble Mr.V.Ramakrishnan Vice Chairman

We find it is possible to dispose of  
 the O.A. on the basis of the materials available  
 on record and the assistance we have received from  
 Mr.Kureshi.

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2. The applicant had been holding the post of EDBPM from 26.3.1991 by way of stop gap arrangement pending regular appointment to that post. It is not in dispute that he ~~is~~ continued to work even at present. When the department wanted to fill up the posts on regular basis, they had moved the employment exchange for nomination. Some nominations were received but the applicant's name did not figure therein. The department, therefore, had proposed to restrict the selection only to the candidates whose names ~~are~~ sponsored by the employment exchange. Aggrieved by the stand of the department, the present O.A. has been filed.

3. The short issue in this case is whether the department is ~~entitled~~ <sup>justified</sup> in restricting the selection only to the candidates whose names are sponsored by the employment exchange. This position has been settled by the Supreme Court's judgment in the case of Excise Supdt. Maltaktnam Krishnan Vs. K.B.M. Visweshwara Rao & ors. 1996 (6) SCC 216. The head notes of which is reads as follow :-

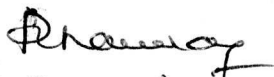
" Service Law- Employment Exchanges  
(Compulsory Notification on Vacancies)  
Act 1959- S 4 (1)- Restricting the  
selection only to the candidates  
sponsored by employment exchange. Held  
not proper- In addition to requisition-  
ing the names from employment exchange


(5)

names should also be called for by the publication in newspapers, having wide circulation and display on office Board- Notice boards or announcement on radio, television and employment news bulletins - such a procedure would subserve fair-play- Constitution of India. Art.14 & 16 Labour law-"

4. It is, therefore, not open to the department to omit the name of the applicant solely on the ground that his name is not sponsored by the employment exchange. In view of this position, the O.A. deserves to be allowed and we direct the respondents to consider the case of the applicant along with the others while making selection for regular appointment for the post of BDBPM, in Bodkima and appoint the most suitable candidate in terms of the — and relevant instructions and guide lines. Pending such regular selection the applicants' services should not be terminated.

5. With the above directions, the O.A. is finally disposed of.

  
( P.C. Kannan )  
Member (J)

  
( V. Ramakrishnan )  
Vice Chairman

SNS+