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ORIGINAL APPLICATION NO. 323 OF 1988.

Date of decision :- April 9, 1990.

Ghasiram Naik                      ...                      Applicant

versus.

Union of India and another. ... Respondents

For the Applicant                      ....                      M/s P.C.Kar, J.Patnaik  
and J. Gupta, Advocates

For the Respondents . . . . Mr. Ganeswar Rath,  
Sr.Standing Counsel(Central)

C O R A M :

THE HON'BLE MR. B.R. PATEL, VICE-CHAIRMAN

A N D

THE HON'BLE N. SENGUPTA, MEMBER (JUDICIAL)

1. Whether reporters of local papers may be allowed to see the judgment ? Yes.
2. To be referred to the Reporters or not ? No.
3. Whether Their Lordships wish to see the fair copy of the judgment ? Yes.

JUDGMENT.

N. SENGUPTA, MEMBER (J).      The applicant in this case has asked for the relief quashing the notice dated 12.7.88, a copy of which is at Annexure-2 to the application.

2. The rules relating to appointment to Class IV Test Category posts had been framed and that provided

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that on the basis of literacy test from the categories belonging to non-test category Class IV staff, Extra-departmental Agents, Casual Labourers and nominees of the Employment Exchanges recruitment were to be made. The impugned notice dated 12.7.88 was issued by the respondent No.2 for holding of recruitment examination to the cadre of Group 'D' in the subordinate offices for filling up the vacancies of 1987. The case of the applicant is that except from the E.D.As., applications from other categories were not called for and further that a clarification, which was sought for by some of the subordinate offices as to whether only E.D.As were to appear at the test, was given on 3rd October, 1988 and the examination was held only about a week thereafter. The applicant <sup>has</sup> is purported to act as the spokesman of the persons belonging to the categories of Non-test categories Casual labourers and part-time casual labourers though he himself is not affected, he being a regular employee in Class IV of the department.

3. The respondents in the counter have questioned the locus standi of the applicant to commence this action. They have further alleged that besides E.D.Agents, the persons from two other categories appeared at the test. Therefore, the grievance that the applicant has <sup>a cause</sup> power to make <sup>the</sup> application on behalf of others is imaginary and non-existent. The respondents have also annexed to the counter the list of candidates who were to appear at the test vide Annexure-R/1, the advertisement and the notice for circulation amongst the persons concerned with regard to

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determination of vacancies categorywise for the year 1987 and the clarification issued on 3.10.88.

4. We have heard Mr. P.C.Kar for the applicant. It is the elementary principle of law that unless a person is aggrieved he had no right of action except the course ~~that~~ <sup>in</sup> such of the cases which are entertained by the High Courts and the Supreme Court in their equity jurisdiction which are known as Public Interest litigations. A Tribunal is not a forum to entertain such an action. Therefore, Mr. Ganeswar Rath is perfectly justified in contending that the applicant not himself being aggrieved, cannot maintain this action.

5. Even factually we are not satisfied that there is a case for making a grievance. Mr. Kar has repeatedly drawn out attention to paragraph-6 of Annexure-2 where the last date of application for E.D.As. and their age limits have been mentioned and also to Annexure-R/3 where a clarification as to whether categories other than E.D.As were to be allowed to sit at the examination and has contended that others were deprived of taking the test. As has been indicated above, from the list at Annexure-R/1 it would be found that atleast one candidate of Part-time Casual labourers and another of non-test category had applied to sit at the test. Mr. Kar being faced with this situation has contended that no casual labourer had really appeared, Therefore, the entire process of selection was vitiated for denial of opportunity to all those who were entitled to face the test. A person has an option

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to appear at the test and if any person does not like to appear at the test, the department is not under an obligation to ask him to appear at the test. Mr. Kar has not been able to cite any instance where an eligible person applied and he was denied the opportunity to sit at the test. In these circumstances, we do not find any case for the applicant. Accordingly the application is dismissed, but however, as the applicant ~~is~~ <sup>has</sup> purported to act on behalf of others, we not like to saddle him with costs.

Since the application is dismissed, the stay order stands vacated.

..... *R. M. Kar* 9.4.90

Vice-Chairman.

..... *M. S. Singh* 9.4.90

Member (Judicial)

