

**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR**

Original Application No.79/2012

Jodhpur this the 21st day of October, 2013

CORAM

**Hon'ble Mr.Justice Kailash Chandra Joshi, Member (J),
Hon'ble Ms. Meenakshi Hooja, Member (A)**

Harharnath Singh Charan S/o Shri Surendra Singh Charan, aged about 25 years, R/o village Velera, Post Kulthana, District Pratapgarh, Rajasthan.

The applicant applied for appointment on the post of LDC in pursuance to advertisement dated 22.04.2010 issued by the respondent No.3 but he has been denied appointment.

.....Applicant

Mr. Kuldeep Mathur, counsel for applicant.

Versus

1. The Navodya Vidhyalaya Samiti, Jaipur Region through its Commissioner, 18, Sangram Colony, Mahaveer Marg, C-Scheme, Jaipur-1.
2. The Deputy Commissioner, Navodya Vidhyalaya Samiti, Jaipur Region through its Commissioner, 18, Sangram Colony, Mahaveer Marg, C-Scheme, Jaipur-1.
3. The Principal, Jawahar Navodya Vidhyalaya, village Budwa, District Banswara.

.....Respondents

None present for respondents.

ORDER (Oral)

Per Justice K.C. Joshi, Member (J)

Applicant by way of this application has challenged the legality of the order at Annexure-A/1 by which Deputy Commissioner, Navodya Vidhyalaya Samiti, informed the Principal, Jawahar Navodya Vidhyalaya, District Banswara, that

the proposal for appointment of Lower Division Clerk (LDC) cannot be approved and further he was advised to reinitiate the complete exercise to fill up the post by following prescribed procedure immediately.

2. The short facts of the case as averred by the applicant are that the respondent No.3 issued an advertisement for appointment on the post of Chawkidar and LDC. The applicant being eligible submitted his application form to the respondents for consideration of his candidature against the available vacant post of LDC. Thereafter, the applicant was asked to appear in type test, in which the applicant secured first position and accordingly his name was recommended by the selection committee for appointment on the post of LDC. But the respondent department denied the appointment to the applicant on the ground that the names were not called by respondent No.3 from Local Employment Exchange. It has been further averred in the application that the respondents on the one hand are making appointment on the post of Chawkidar but on the other hand they have denied the appointment to the applicant on the post of LDC in pursuance to the same advertisement. Therefore, this application has been filed by the applicant being aggrieved of Annexure-A/1.

3. By way of counter, the respondents averred that the object of any process of selection for entry into public service is to secure the best and the most suitable person for the job, avoiding patronage and favouritism. Selection based on merit and competition, tested

X (9)

impartially and objectively, is the essential foundation of any useful and efficient public service. It has been further averred in the reply that the applicant has no legally enforceable right just because the Selection Committee at the Vidyalaya level recommended his name to the Regional Office for approval for appointment to the post of Lower Division Clerk on the basis of the result of the trade test. It has been further averred that after recommendation of the Selection Committee, due approval/disapproval from the competent authority shall be conveyed for making appointment, and because the Selection Committee at the Regional Office level has disapproved the selection process in the of the irregularities committed in the Recruitment Process by the Principal, Jawahar Navodaya Vidyalaya, Budwa, District Banswara, therefore, the claim of the applicant is not sustainable in the eyes of law. It has been further averred in the reply that in case of recruitment for all Group 'D' posts of the Vidyalaya, specific approval from the Regional office is not essential and for which the Regional office is required to be informed about the recruitment made and thus appointment of Group D is recommended by the Sub-appointment Committee of the Vidhyalaya as notified. It has been further averred that for the post of LDC only 11 candidates submitted their application and they were called for the trade test and out of which 06 candidates were appeared and in which the applicant secured the first position. It has been further averred that it is clear that the circulation of the vacant post was not so wide and the vacancy was published only in a weekly news paper having very limited circulation and that too

199

prior to getting non-availability certificate from the local employment exchange. Therefore, the applicant cannot claim it as a matter of right that he should be appointment on the post of LDC. Accordingly, by way of counter, the respondent department have prayed to dismiss the application.

4. Heard both the parties. Counsel for the applicant contended that the Hon'ble Apex Court in the case of *Excise Superintendent Malkapatnam, Krishna District A.P. v. K.B.N. Visweshwara Rao & Ors*, reported in (1996) 6 SCC 216, held that restricting the selection only to the candidates sponsored by employment exchange was not proper. Counsel for the applicant while relying upon the aforesaid judgment contended that in the present case the only ground of denying the appointment to the applicant is that the names were not called from the local employment exchange and therefore this cannot be a ground and he further contended that on the same circulation, on the post of the Group D (Chowkidar), a person was appointed, thus it is violative of Article 14 of the Constitution of India because similar treatment has not been given to the similarly situated person.

5. We have perused the application as well as reply filed by the respondent department. As per reply, there were two grounds to disapprove the recommendation of the Committee; first was non-requisition of NOC from the employment exchange, and second limited circulation of the vacancy in the weekly newspaper of the district. It has been averred in the reply that for the posts i.e. for

Group 'C' and 'D' there is entirely different procedure for appointment because the appointment for the post of Group 'D' does not require the approval of the Regional Level committee, whereas on the post of Group 'C' such approval is essential. It is a settled principle of law that selection based on merit and competition, tested impartiality and objectively, is the essential foundation of any useful and efficient public service. Accordingly, in this case we have to see that the fair opportunities to all for the open competitive examination have been provided by wide circulation or not.

6. Considered the contentions of the applicant and also the judgment cited by the counsel for the applicant. In our considered view in the present case, it cannot be said that there was wide circulation for the competitive examination and further it cannot be said that the action on the part of the respondents is violative of Article 14 of the Constitution of India, because separate procedures is provided for recruitment to the posts of Group 'C' and 'D'. Accordingly, the judgment cited by the counsel for the applicant has no bearing in the present case and the contentions raised by the counsel for the applicant do not carry any force. It is the settled principle of law that merely finding a place in the selection list does not create any right to the applicant for appointment to the post. Accordingly, the OA lacks merit and is dismissed with no order as to costs.


(Meenakshi Hooja)
Administrative Member


(Justice K.C. Joshi)
Judicial Member