

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

No.OA 1105 of 97

Date of order : 18.11.04

Present : Hon'ble Mr.Mukesh Kumar Gupta, Judicial Member
Hon'ble Mr.M.K.Mishra, Administrative Member

PRASANTA KR. JOARDAR

VS

UNION OF INDIA & ORS.

For the applicant : Mr.P.Mukherjee, counsel

For the respondents: Mr.S.K.Dutta, counsel

O R D E R (ORAL)

Mukesh Kumar Gupta, J.M.

The applicant in this application seeks direction to the respondents to confer him temporary status w.e.f. 1.1.95 and also to publish the result of the interview held on 22.2.97 for selection and appointment to the post of EDMP of Lalkuthi EDBO, besides seeking cancellation of the advertisement dated 23.7.97.

2. It is the contention of the applicant that he has worked on casual basis from 1989 to 1996 and has worked in various dates in the said years, particularly in the year 1997 he worked for 254 days and accordingly he is entitled to temporary status. It is further contended that in terms of the communication dated 31.1.97 (Annexure A/1) applications were invited for filling up the posts of EDMP, Lalkuthi and he being eligible, applied for the said post. Interview was held on 22.2.97 and he has been informed that he has been selected and appointed. It is contended that once one selection is carried out, even if appointment order is not issued, the respondents under the law are stopped from changing the category of the post for which it was so invited.

3. Mr.Dutta, ld.counsel appearing for the respondents on the other hand seriously contested the aforesaid contentions and contended that no interview was ever held on 22.2.97. It is admitted that initially applications were invited for the said post vide memo 31.1.97 and 23 candidates including the applicant applied for the said post for which verification of bio-data and testimonials were held on

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22.2.97. One of the candidates was left out and fresh verification was made on 3.3.97. On a review made by the senior officers it was held that the process adopted was illegal. Therefore direction was issued to cancel the said selection and initiate fresh selection and the post should be filled up by ST candidates only. Therefore it was contended that fresh notification dated 23.5.97 as well as 23.7.97 were issued making the said post reserved for ST candidate. It is further contended that only because the candidate was a substitute of K.K. Joardar and he has discharged his duties as substitute from time to time, under Rule 5 of EDA (Conduct & Service) Rules, 1964, that does not give any right to the applicant to get absorbed in the said post. Further it is contended that there is no provision of giving weightage to the past experience for giving appointment in the post of EDMP.

4. The applicant filed a rejoinder and controverting the contentions raised by the respondents. Strong reliance has been placed on 1997(1) ATJ 556 (Lal Singh Meena -vs- Union of India & Ors.) decided by the Principal Bench of this Tribunal where it is held that percentage of reservations has to be worked out in relation to the number of posts which form the cadre strength of the whole division. Further reliance was made on the case of P.K.Jaiswal -vs- Ms.Debi Mukerjee & Ors. reported in 1992 SCSLJ page 406 particularly para 5.

5. We have heard the ld.counsel for both the parties at length and perused the pleadings. In the present case no documents has been shown that the applicant was ever selected. Only an averment has been made that he has been interviewed on 22.2.97. Therefore in our considered view the application is devoid of any merit, particularly in view of 1991 (3) SCC 47 Shankarsan Dash vs. UOI.

6. Accordingly the OA is dismissed being devoid of any merit. No order as to costs.


MEMBER (A)

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MEMBER (J)