

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

No OA 1002 of 1997

Date of Order: 1.12.2004

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

DEBASIS MAHAPATRA

VS.

UNION OF INDIA (DEPARTMENT OF POSTS)

For the applicant : Mr. A. Chakraborty, Counsel

For the respondents : Mr. S.P. Kar/ Mr. S.K.
Dutta, Counsel

O R D E R (ORAL)

Mr. Mukesh Kumar Gupta, JM:

By the present application, the applicant seeks quashing of notice dated 4th August, 1997 (Annexure 'C') inviting application from the eligible candidates for the post of Extra Departmental Delivery Agent (EDDA), Mahammadpore branch post office. Direction is also sought to select candidates for the said post from amongst the candidates sponsored by Employment Exchange Officer vide communication dated 26.6.97 & also to call the applicant for interview etc.

2. The admitted facts of the case are that by Memorandum dated 19.5.97, Sub-Divisional Inspector Postal (SDIP), Math Chandipur Sub-Division, requested the Employment Exchange Officer, Contai to sponsor the name of suitable candidates for the post of EDDA and for this purpose 30.6.97 was prescribed as the last date. The said memorandum further stated that SC/ ST/ OBC candidates will be given preference. Since the list of candidates sponsored by the Employment Exchange was not received within the stipulated period, the SDIP issued notification dated 4.8.97 and invited applications from the public wherein it was stated that ST candidates would be given

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preference and in absence of which SC will be given the next preference. The applicant was one of the candidates whose name was sponsored by the Employment Exchange but since the same was not received within the time from the Employment Exchange, the aforesaid circular dated 4.8.97 was issued. It is an admitted fact that the list containing the names of the candidates sponsored by the Employment Exchange was received only on 31.7.97 though the last date fixed was 30.6.87 (Annexure 'A'). In the present application, the applicant stated that the respondents' action in inviting the applications from the public at large vide circular dated 4.8.97 is illegal, arbitrary and without any authority of law; the same had been issued with ulterior motive, the applicant who was sponsored by Employment Exchange would not be considered for the said post without any justification, which is violative of principles of natural justice; he had submitted representations dated 26.8.97 (Annexure 'D') which has not been considered by the competent authority. It was vociferously contended by Shri A. Chakraborty, learned counsel for the applicant, that when vide circular dated 19.5.97, the Employment Exchange Officer was requested to sponsor the names of candidates, the post in question was not reserved and it was stated that the SC/ ST/ OBC candidates will be given preference in their order. While impugned circular dated 4.8.97 virtually reserved the said post only for ST candidates, SC candidates were to be given preference in the absence of sufficient number of ST candidates being not available. It is contended that such a change cannot be enforced by the respondents.

3. We heard learned counsel for the parties at length and perused the pleadings. It was pointed out by Shri S.P. Kar, learned counsel for the respondents that pursuant to the circular dated 4.8.97, a candidate has been selected and appointed on 22.9.2002. The applicant

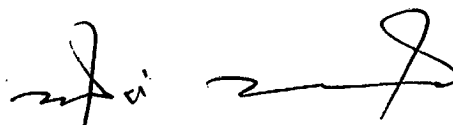
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belongs to SC community and his consideration to the said post was not excluded. When the candidates were not sponsored by Employment Exchange within the time stipulated by the Postal Department, we see no justification in the applicant's contention that the department was not competent to invite applications from the general public merely for the reasons that as it would enlarge the zone of consideration for a single vacancy. The applicant has only right to consideration for appointment and he has no legal and indefeasible right to insist issuing of appointment letter. The reasons for challenging the validity of circular dated 4.8.97, in our considered opinion is misconceived. The allegations of mala fides etc. are found to be without any basis or substance. Since we have already noticed that pursuant to the circular dated 4.8.97, the respondents have appointed a candidate, namely, Jhantu Kumar Gai and a copy of the said appointment letter has been taken on record. Since the aforesaid appointment has not been challenged nor the said person has been impleaded, the present application is not maintainable in the present form and suffer from nonjoinder of parties. We may note that there was no stay order issued by this Tribunal at the time of issuing notice or thereafter.

In view of the above, the present application is bereft of any merits and accordingly the same is dismissed. No costs.



(M.K. Misra)
Member (A)



(Mukesh Kumar Gupta)
Member (J)