

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH, LUCKNOW

Original Application No.316/2003.
this the day of 17.3.2004.

HON'BLE SHRI SHANKER RAJU, MEMBER (J).

HON'BLE SHRI R.K.UPADHAYAYA, MEMBER (A).

Manoj Kumar Tewari, son of Jagat Narain Tewari,
resident of Mohalla Rajendra Nagar Colony, near
Railway, Gola Gokarannath, District Lakhimpur Kheri
(at present working on the post of L.D.C. (Lower
Division Clerk) in Jawahar Navodaya Vidyalaya,
Itara, Pihani, Hardoi.

... Applicant.

By Advocate: Shri P.K. Singh.

Versus.

The Joint Director, J.N.V.Samit,
New Delhi.

2. The Deputy Director,
Jawahar Navodaya Vidyalaya Samiti,
B-10, Sector G, Aliganj, Lucknow.

3. The Principal,
Jawahar Navodaya Vidyalaya Itara, Pihani,
Hardoi.

... Respondents.

By Advocate: Shri Anil Kumar.

O R D E R (ORAL)

(BY SHRI R.K. UPADHAYAYA, MEMBER (A)).

This application under Section 19 of the
Administrative Tribunal Act, 1985 has been filed
with a prayer to quash and set aside the order dated

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26.6.2003 (Annexure-2) and order dated 3.7.2003 (Annexure-1) by which the representation of the applicant has been rejected and his services as part-time L.D.C. with Jawahar Navodaya Vidyalaya, Hardoi have been dispensed ^{ed} with. ✓

2. The applicant claims that he was working on the post of L.D.C. in Jawahar Novodaya Vidyalaya, Itara, Pihani, Hardoi. He holds M.A.(English) Degree and was appointed as T.G.T.(English) in the Jawahar Navodaya Vidyalaya. He claims that he worked on the post from 9.11.2000 to 12.09.2001. He places reliance on the certificate (Annexure-4) issued by the respondents which stated that the applicant [✓] had served in the Vidyalaya against T.G.T. (English) on Part-time basis w.e.f 9.11.2000 to 30.4.2001 on consolidated salary of Rs.3000/- per month. It is further stated by the applicant that the post of L.D.C. and post of T.G.T. (English) published in the news papers on 30.7.2001 (Annexure-5). The applicant claims that he " started his duty " on consolidated salary of Rs.1500/- per month. He was duly selected by the Committee and Principal recommended his name to the Competent Authority. However, his appointment as L.D.C. was not approved and his services were terminated and therefore he approached ~~sa~~ this Tribunal and this Tribunal by order dated 19.9.2002 directed the Competent Authority to decide the representation of the applicant. The impugned order dated 26.6.2003 has been issued in pursuance of the direction of this Tribunal. As per this order the post of L.D.C. ^{was} required to be filled up by calling the names from the local Employment Exchange. However, the applicant was appointed without conducting any test ~~or~~ calling the names from the local Employment Exchange. The Regional Office did

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not approve the name of the applicant therefore fresh selection has to be resorted to. It is urged on behalf of the applicant that he has been working ~~for~~ more than 240 days and deserved to be regularised. The rejection of his representation on the ground that his name was not sponsored by the Employment Exchange deserves to be rejected.

3. The respondents have opposed the prayer of the applicant. The respondents ~~had~~ earlier filed objection regarding claim on the interim relief of the applicant, wherein it has been stated that the selection of the applicant was not as per policy decision dated 29.4.1999 and 4.2.1999. Since the prescribed process ^{was} not followed, the applicant could not ^{be} retained in service. By M.P.No.528/2004, the respondents filed an Affidavit in which it has been stated that recruitment of the Staff has to be made as per policy dated 4.2.1999. This policy / guidelines states that the post will be notified in Newspapers in addition to circulation of vacancy and ~~requestions~~ from local Employment Exchange. The respondents further stated that the Annexure C-5 Dated 30.7.2002 was in pursuance of the said ^{selection} and approval of the Regional Office for engagement of the applicant was proposed. The Regional Office advised ~~to~~ the Principal to follow the guidelines issued on 13.6.2001 vide Annexure C-5. Accordingly ~~then~~ fresh recruitment process has been initiated.

4. During the course of arguments, the learned counsel for applicant stated that they have now reserved the post of L.D.C. for OBC candidate. The

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applicant being general candidate will not be able to be considered. ~~It~~ therefore, it was urged that impugned order be quashed and applicant be directed to work as L.D.C.

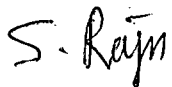
5. We have heard learned counsel for both the parties and perused the material available on record. The relief claimed by the applicant relates to his re-instatement on the post of L.D.C. and for regularisation on the same post. There is no dispute that the respondents organization, Novodaya Vidyalaya Samiti, has issued a clarification on 13.6.2001 (Annexure C-5) for appointment on non-teaching staff on Contract basis. This provides that Drivers, LDCs, Store Keeper, etc. of Jawahar Novodaya Samiti are to be filled henceforth on contract basis only by following the prescribed procedure. There is also no dispute that prescribed procedure includes calling of the candidates from local Employment Exchange. There is nothing on record to show that applicant's name was called in 2001 from Employment Exchange and if any names were called in the year 2000 as stated by the learned counsel for applicant that will not be relevant for filling vacancy in the year 2001 therefore, his appointment even on contract basis could not be continued. In this view of the matter, we do not find any justification to interfere in the action of the respondents. However, in case there are any vacancies to which the applicant is eligible, he may apply with the respondents and his case also be considered along with others in the Novodaya Vidyalaya Samiti Organization giving him age

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relaxation to the extend^t for which period, he rendered ^{service} in the respondents organization. Respondents are also directed to consider his case also alongwith others even if his name was not sponsored by the local Employment Exchange, provided he will ^{get} now registered with the Employment Exchange and submit him|self to test of such selection.

6. In view of what is stated in the preceding paragraphs, the O.A. is disposed of without any order as to costs.


MEMBER (A)


MEMBER (J).

Dated: 17.3.2004.
Lucknow.
Amit//