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CENTRAL ADMINISTRATIVE TRIBUNAL LUCKNOW BENCH LUCKNOW

Original Application No. 337 of 1992

National Union Postmen, Class IV and
E.D. Employees and others Applicants

Versus

Union of India & Others Respondents

Hon'ble Mr. Justice U.C.Srivastava, VC

Hon'ble Mr. V.K. Seth, Member (A)

(By Hon'ble Mr. Justice U.C.Srivastava, VC)

The applicants nine in numbers impleading some alleged Union known as All India National Union of Postmen, Class IV and E.D. Employees for which there appears to be no justification have approached the tribunal praying that the respondents be directed to place fresh requisition with respondent no. 9 mentioning the qualification and experience of the applicants for sponsoring their names for appointment as E.D. employees and they may be directed not to displace the applicants, who are still in service and their cases may also be considered for appointment on regular basis against the existing 59 vacancies. It appears that all these applicants were appointed as substitute in place of certain persons in the year 1991. One of the applicants has filed an application in the year 1988, which application was dismissed in 1989 with the recommendation that the case of the applicant for alternative employment may be considered. Coming to learn that 59 posts are vacant, they approached the authorities and made efforts for appointing them against the same post, but as no appointment was given to ~~xx~~ them and that's why, they ~~xx~~ have approached the tribunal claiming that of course, in view of the Director General's instructions, they are entitled to get regular appointment and that they are also entitled

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to get benefits of Industrial Dispute Act and the experience is to be counted.

2. The respondents have opposed the application and have pleaded that some of the applicants at present are not working as substitute and they cannot be considered for regularisation as they are not holding any post. Those who have been engaged as substitute by the E.D.As, who are working as outsiders on departmental posts. The rules of recruitment ^{for these posts} ~~are~~ there and the appointments are made in accordance with the recruitment rules and merely because a person worked as a substitute does not entitle him to get an appointment as under the rules a requisition is sent to the employment exchange and thereafter the process starts, but at the same time as they have admitted," however, the substitutes are entitled to get preference in appointment on the vacant post of the Extra Departmental Agent provided they are eligible for the post in accordance with the recruitment rules and their names have been sponsored by the employment exchange."

3. Thus, the respondents also admit that the applicants are entitled to get preference provided their names are sponsored by the employment exchange. Even if, the names of the applicants are not sponsored by the employment exchange and other names are sponsored, but the applicants's names find place in the register of employment exchange and they applied separately, their cases cannot be reject merely on this ground that their names have not come through the employment exchange, even though, their names are registered as such and they have

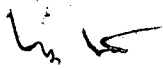
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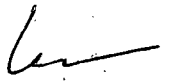
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worked with the department as substitute. In this connection a reference may be made to the case of Union of India Vs. N. Har Gopal A.I.R., 1987 Supreme Court page ,1227 wherein it was observed that :-

" Employment Exchanges (compulsory notification of Vacancies) Act, 1959 does not oblige any employer to employ those persons only who have been sponsored by employment exchanges. The object of the Act is not to restrict that to enlarge the field of choice so that the employer may choose the best and the most efficient and to provide an opportunity to the worker to have his claim for appointment considered without the worker having to knock at every door for employment."

It was the same reason or the other, the name of the applicants were not sponsored by the employment exchange, but they are registered and they also applied, there appears to be no reason why their cases will not be considered alongwith the other cases and preference will not be given to them. With these observations, the application stand disposed of, ~~with~~ The cases, the applicant shall also be considered in preferential basis alongwith the other candidates provided their names are registered in the employment exchange, even if the same is not sponsored by the employment exchange, when a requisition is made, ~~to wait~~. ~~Their names also be sent by the employment exchange.~~ No order as to costs.


Member (A)


Vice-Chairman

Lucknow Dated: 20.4.1993

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