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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH, NEW BOMBAY

O.A.No. 376/87 & O.A.No. 436/87

Mancher Rangnath Pawar,
At. Vakoli,
Post. Darevadi,
Tal. & Dist. Ahmednagar.

and 12 others

... Applicants in
O.A.No. 376/87

Dilip Keshav Dhadge,
House No ; 677, Lohar Galli,
Nehru Chowk,
Ahmednagar. & Another

... Applicants in
O.A. No. 436/87

V/s.

1. Union of India
Through the Secretary,
Ministry of Defence,
New Delhi.
2. Chief Engineer,
Southern Command,
Pune.
3. Garrison Engineer,
Ahmednagar.



... Respondents in
Both the above
applications.

Coram: Hon'ble Member(A) J.G.Rajadhaksha
Hon'ble Member(J) M.B.Mujumdar

Appearances:

1. Mr.S.R.Atre, Advocate
for the applicants.
2. Mr.R.K.Shetty, Advocate
For the respondents.

ORAL JUDGMENT:
(Per M.B.Mujumdar)

Date: 4.9.1987

By this judgment we are disposing of O.A.376/87
and O.A.436/87. In O.A.376/87 there are 13 applicants while
in O.A.436/87 there are only two applicants.

2. Respondent No.3 had requested the Employment Exchange authorities at Ahmednagar to send names for appointing persons as Mazdoors(Labourers). Accordingly interviews were held by a Board of Officers for different categories of posts. For the post of Mazdoors, 73 persons were called. Out of them 20 persons including the applicants were found suitable. There was a ban ever since prior to the date of interview. But interviews were held on the assumptions that the ban would be lifted. As it was necessary for the respondents to fill the posts and as the applicants were found suitable to be appointed as Mazdoors the respondents sent letters dated 30th of March, 1985 to all of them. The letter reads as follows :-

RECRUITMENT IN MES

1. With reference to your interview dated 24th September, 1984.

2. Enclosed please find attestation forms for furnishing your particulars and early return to Garrison Engineer Ahmednagar duly affixed with your pass-port size photograph and completed in all respect for further action.

3. Medical Report forms are also enclosed herewith for your Medical Examination by Civil Surgeon Ahmednagar, which may be done and kept ready with you for production as and when called for.

4. This letter does not bear neither any guarantee of your appointment nor selection for the post.

3. The applicants accordingly did submit attestation forms along with the necessary particulars and passport size photographs

to the Respondent No.3. They also appeared for medical examination before the Civil Surgeon, Ahmednagar and according to the applicants they were found medically fit for appointment, by the Civil Surgeon. However, as the ban on appointment was not lifted they could not be appointed by Respondent No.3. It appears that the ban was partially lifted, subsequently. Hence Respondent No.3 again requested the Employment Exchange authorities to send names of persons for appointment to different categories of posts. The names of the applicants were not sent by the Employment Exchange authorities probably because they were already found suitable on the basis of the interview held on 24.9.1984. Interviews were held on 15.6.1987. At that time 105 persons were called for interviews out of which 20 persons were found suitable for appointment as Mazdoors. Again Respondent No.3 requested the Employment Exchange authorities to submit names for different categories of posts. Interviews were held in August, 1987. At that time 200 persons were called for the posts of Mazdoors and 40 of them found suitable for appointment.

4. As the applicants were not called for any of the subsequent interviews, nor were they given appointments, they approached this Tribunal in June, 1987 requesting that the respondents should be directed to appoint them to the posts of Mazdoors. By way of interim relief they had requested that the respondents should not hold interviews for the post of Mazdoors till they, the applicants were appointed. By our order dtd. 12.6.1987 passed in O.A.376/87 we had directed that respondents may proceed with the interviews fixed on 15.6.1987 and may make selections also. However, they should not declare the results of selection to the posts of Mazdoors. Accordingly, the results are not yet declared.

5. The respondents contested both the applications. They have taken two main contentions. The first is regarding the jurisdiction of this Tribunal and the second is that no assurance or guarantees was given to the applicant that they will be appointed as Mazdoors.

6. Regarding the first point we find that it is devoid of any merit. Section 14(1)(a) gives the jurisdiction to the Tribunal regarding recruitment and other matters concerning any civil post under the Union of India. Post of Mazdoor is such a civil post under the Union of India. Moreover the point is decided by the Cuttack Bench of the Central Administrative Tribunal in "Sunamoni Rout vs. Union of India and others-ATR 1987(1)CAT 19" wherein it is held that the Tribunal has jurisdiction to redress any grievance by a person ^{at the stage} of being recruited and has not been appointed.

7. Regarding the second point, we may point out that the ^{at the stage} letters dtd. 30th March, 1985 sent to the applicant did clarify that the letter did not bear any guarantee of appointment nor selection for the posts. But after hearing advocates of both the sides as well as Mr.K.D.Kakade, Asstt. Garrison Engineer, we find that all the 15 applicants and 5 more were found suitable for being appointed as Mazdoors. In other words, they were selected for the posts of Mazdoors. They could not be appointed because of the ban which was in ^{then} ^{and} existence for some time thereafter. We also find that none of these 20 persons was called for the interview held on 15.6.1987 and in August, 1987, because their names were not sponsored by the Employment Exchange. We do not know the exact reasons why their names were not sponsored by the Employment Exchange authorities. Most probably their names were not sent because they were found suitable for selection by the Board of Officers who interviewed them on 24.9.84. We feel that they should not suffer either, because

of the ban which was in existence at that time or because of the mistake committed by the Employment Exchange authorities by not sending their names. Moreover, no satisfactory explanation was given to us as to why the applicants should not be appointed first before appointing the persons found suitable on the basis of the interviews held on 15.6.87, if they are found otherwise suitable. We, therefore, feel that ~~that is both~~ the applications deserve to be allowed, and hence ~~we~~ ^{we} pass the following orders:—

8. We hereby direct that the respondents ~~shall~~ re-appoint all the fifteen applicants and five other persons who were found suitable for appointment as Mazdoors on the basis of the interviews held by the Board of Officers on 24.9.1984, provided, they were found medically fit and their antecedents were not adverse for being appointed as Mazdoors. As regards age, we direct that if they are found within the age on the date of the next interview i.e. on 15.6.1987 they should not be rejected as age barred though they might be age barred thereafter. Interim orders passed on 12.6.87 and continued thereafter, are vacated.

Parties to bear their own costs.

True copy

SECTION OFFICER
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