

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH MUMBAI

ORIGINAL APPLICATION NO:1045/96

DATE OF DECISION: 1 30th August 2001

Shri Shaikh Mohboob Mohd Caus Applicant.

Shri K.B. Talreja Advocate for
Applicant.

Verses

Union of India and others Respondents.

Shri S.S. Karkear for Shri P.M.Pradhan Advocate for
Respondents

CORAM

Hon'ble Shri S.L.Jain Member(J)

Hon'ble Shri G.C. Srivastava, Member(A)

(1) To be referred to the Reporter or not? yes

(2) Whether it needs to be circulated to no
other Benches of the Tribunal?

(3) Library. yes

S.L.Jain
(S.L.Jain)
Member(J)

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CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI.

ORIGINAL APPLICATION NO.1045/96

the 30th day of AUGUST 2001

CORAM: Hon'ble Shri S.L. Jain, Member (J)

Hon'ble Shri G.C. Srivastava, Member(A)

Shaikh Mohboob Mohd Caus
EDBPM - Branch Post Office
Pan Bhosi - S.O. Kandhar
Dist. Nanded.

Resident of : At Post Pan Bhosi
Taluka Kandhar, Dist. Nanded.

...Applicant

By Advocate Shri K.B. Talreja

V/s

1. Union of India through
the Supdt, of Post
Offices, Nanded.

2. Shri Sambhaji Ramji Bhosikar
at Pan Bhosi, Dist. Nanded.

3. Employment Exchange - Nanded
Shaikh Kalim - Pan Bhosi -
Khandhar.

...Respondents.

By Advocate Shri S.S. Karkera for Shri P.M.Pradhan for R1

Ms.Mistry for Shri V.S. Masurkar for R3.

O R D E R

{Per S.L.Jain, Member(J)}

This is a application under Section 19 of the Administrative Tribunals Act 1985 seeking a direction to the respondents to retain the applicant as EDBPM who is continuously working for more than 10 months without any break and regularise him as per rules.

S.L.J.

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2. The applicant was posted as EDBPM at Pan Bhosi against a clear vacancy, the incumbent being promoted as Postman, and had taken over charge from Shri Shaikh Kalim. The applicant worked continuously without break as EXBPM from 8.12.1995 till date without any complaint and to the satisfaction of his superiors viz Supdt. of Post Offices, Nanded.

3. He is qualified for the post of EDBPM as he the requisite qualification is SSC whereas the applicant is HSC. He belongs to Scheduled Tribe. Respondent No.2 who has been asked to replace the applicant is belonging to General Category and as per policy of the Government Scheduled Casts and Scheduled Tribes are to be given preference. He also possess immoveable property of his own which is one of the criteria for posting as EBBPM. He is also registered with the Employment Exchange Nanded with effect from 3.7.1986 vide registration No. 3256/86.

4. The list of candidates dated 19.10.1995 called from Employment Exchange from becomes invalid after expiry of 6 months. The name of the Respondent No.2 was picked up from this list which has become obsolete and invalid. It is not necessary that the persons actually called for from the Exmployment Exchange can be appointed. The service of the applicant were terminated without assigning any reason. Hence this OA for the aforesaid relief.

5. The respondents resisted the claim of the applicant and alleged that respondent No.2 has been appointed after following the due process in accordance with the rules and selection made from the candidates sponsered by the Employment Exchange. The

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applicant was purely looking after the work of branch office, Panbhosi, after his brother Shri Shaikh Kalim went on promotion and there was no regular order issued by the respondents. Thus the applicant was a substitute / provisional. In such a situation it does not confer any right for claiming for the above said post since the said post of EDBPM has to be filled only after calling candidates through the Employment Exchange as per recruitment rules. Respondent No.1 has never offered any appointment either provisional or even on temporary basis to the applicant. The applicant was purely working as stop gap arrangement without any order from the authority. The name of the applicant was not sponsored by the Employment Exchange. Hence the qualification which the applicant claims to be possessed are not relevant one. The post was not earmarked for any reserved category. Hence prayed for dismissal of the OA alongwith costs.

6. The learned counsel for the applicant relied on AIR 1997 SC 1227 Union of India and others V/s V.N. Hargopal and others and argued that the Act does not oblige any employer to employ those persons only who have been sponsored by Employment Exchange. There cannot be any dispute about the said proposition of law. The applicant never applied for the post of EDBPM. As the applicant was never a candidate for the said post, he is not entitled to challenge the selection as he has no locus standi for the same.


7. The applicant was working as EDBPM as stop gap arrangement. Hence has no right to be considered for the said post.

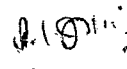
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8. The learned counsel for the applicant argued that the Employment Exchange has submitted the list of candidate which is valid up to six months and from the above list respondent No.2 was appointed. The process of selection commences from the calling of list from the Employment Exchange and after submitting the list the Employment Exchange has nothing to do with the selection held by the respondents.

9. The learned counsel for the applicant argued that the applicant has honestly worked to the satisfaction of his Superiors. This may be a good ground had the applicant applied for the said selection as good character which cannot be a ground to set aside the selection when the applicant was not one of the candidates for the selection. Suffice to state that the applicant's case can be turned as public interest litigation for which the Tribunal has no jurisdiction to decided the matter.

10. In the result, I do not find any merit in the OA. The OA is liable to be dismissed and is dismissed accordingly with no order as to costs.


(G.C. Srivastava)
Member(A)


(S.L. Jain)
Member(J)