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C.A. No. 336/90

Vinod Kumar ... applicant

vs.

Union of India & others ... Respondents.

Hon. Mr. Justice B.C. Srivastava, V.C.
Hon. Mr. K. Chayya, A.M.

(By Hon. Mr. Justice L.C. Srinivasa, V.C.)

The applicant who belongs to S.C. community was engaged on the post of Waterman of Group 'D' Staff by the C.G.H.S., Lucknow and his candidature having been sponsored by Employment Exchange where he was registered on 15.4.55. He discharged his duties as Nursing Attendant and Peon w.e.f. 1.12.55 to 30.9.58 although the appointment letter issued to him states that he was engaged on daily basis on daily rates. An advertisement was issued for the recruitment to the post of Nursing Attendant. The applicant says that he was working with requisite qualifications and in fact was working as Nursing Attendant and had experience of one year. He was registered with Employment Exchange being S.C. candidate and therefore he moved an application for the same post. He was called for an interview. According to him the billing clerk of Group 'D' post, i.e. Nursing Attendant contrived to win over the staff of Employment Exchange, Lucknow and got the names of his brother in law Shri Prem Singh Rawat son of Shri R.M. Choud, Office Superintendent and the brother in law of Shri Ram Asrey Srivastava, Lab Assistant, sent through Employment Exchange which could not send the name of the applicant even though

it was registered with it. The then C.M.O. did not scrutinise the said list. After his retirement in June 1987, it was scrutinised in the year 1986 and other respondents No.4 was appointed and the applicant was thrown out.

2. The applicant's services were terminated and that is why he has approached the Tribunal. The respondents have resisted the claim of the applicant and they have stated that the applicant's name was not sponsored by the Employment Exchange which included the name of respondent No.4. The list indicates as has been rightly contended by the Learned Counsel for the applicant in the rejoinder affidavit that it does not include the name of respondent No.4 and even though his name was not included in the list, the appointment was given to him. As per the contents, the applicant who gained experience and registered with Employment Exchange and directed to the department, and between a person who is eligible and whose name was sent by Employment Exchange was factually it was not. Even if his name has been sent by the Employment Exchange, it was not obligatory for the respondents to consider those names which had been sent by the Employment Exchange and though the name of the person whose name was entered in the Employment Exchange and have directly applied and were working in the department. In case of Union of India Vs. N. Marjopal A.I.R. 1987, 3.C. Page 122/1987, the court had observed that Govt. instructions regarding powers to fill the notified vacancies by candidates sponsored by Employment Exchanges are mandatory for government servants and not to others.

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The object of act is not to restrict but to enlarge the ^{type} so that the employer get the best and the most efficient and to provide an opportunity to workers having placed for appointment. The act ~~for the~~ places of obligation ^m and the employer ^{to} notified ~~for~~ vacancies that may occur to the Estt. Code for filling up the vacancies. In view of the clear position of the main applicant, the application ought to be considered.

[Handwritten signature]



Vice Chairman

Lucknow
dt. 25.6.92

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