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THE CENTRAL ADMINISTRATIVE TRIBUNAL, LUCKNOW BENCH

C.A. No. 336/90

Vinod Kumar

...

Applicant

Vs.

Union of India & others ...

Respondents.

Hon. Mr. Justice L.C. Srivastava, V.C.

Hon. Mr. K. Obayya, A.M.

(By hon. Mr. Justice L.C. Srivastava, 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 15.4.85. He discharged his duties as Nursing Attendant and Peon w.e.f. 1.1.86 to 30.1.88 although the appointment letter issued to him states that he was engaged on daily labour or 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 clerk of Group 'D' post, i.e. Nursing Attendant manœuvred to win over the staff of Employment Exchange, Lucknow and get the names of his brother in law Shri Prem Singh Rewat son of Shri R.M. Chaudhary, Office Superintendent and the brother in law of Shri Ram Asray Srivastava, Lab Assistant, sent through Employment Exchange which could not send the name of the applicant even though

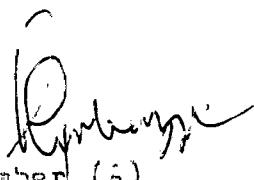
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it was registered with it. The then C.M.O. did not scrutinise the said list. After his retirement in June 1987, it was scrutinised in the year 1986 and other respondents No.4 was appointed and the applicant was thrown out.

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. Haropal A.T.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 Exchange are mandatory for government servants and not to others.

The object of act is not to restrict but to enlarge the scope so that the employer get the best and the most efficient and to provide an opportunity to worker having placed for appointment. The act ~~for the~~ places of obligation and the employer <sup>M</sup> ~~notifying~~ <sup>to</sup> vacancies that may occur to the Govt. Code for filling up the vacancies. In view of the clear position of the main applicant, the application ought to be considered.

3. As such in these circumstances, the application deserves to be allowed and appointment of respondent No.4 is quashed. The respondents are directed to consider the case of the applicant vis-a-vis other persons for appointment to the said post. However, we make it clear that although the appointment of respondent No.4 has been quashed, he can be allowed to work so long as the fresh selection does not take place or he can be adjusted against the said post. Let the fresh selection take place within 3 months of the date of the communication of this order. No order as to be costs.

  
Member (A)

  
Vice Chairman

Lucknow

amc dt. 25.5.92