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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH, NEW BOMBAY,
CAMP AT NAGPUR.

Original Application No.1/90.

Shri Prakash R.Khamat & Ors.

... Applicants.

V/s.

Union of India & Ors.

... Respondents.

Coram: Hon'ble Member(A), Shri P.S.Chaudhuri,
Hon'ble Member(J), Shri T.C.Reddy.

Appearances:-

Applicant by Mr.D.B.Walthare.
Respondents by Mr.Ramesh Darda.

Oral Judgment:-

{Per Shri P.S.Chaudhuri, Member(A)} Dated: 22.4.1991.

This application under section 19 of the Administrative Tribunals Act, 1985 was filed on 2.1.1990. In it the applicants who are working as Extra Departmental Agents in the Nagpur City Division of the Postal Department are challenging the order dt. ~~12.12~~ 19.12.1989, as amended by the order dated 13.7.1990, publishing the results of the departmental examination for filling up Grade 'D' posts that was held on 19.11.1989.

2. The respondents have opposed the application by filing their written reply. We have heard Mr.D.B.Walthare, learned counsel for the applicants and Mr.Ramesh Darda, learned counsel for the respondents. As the facts in this case are simple and not in dispute, we are of the opinion that it can be decided to day, when we were hearing the question of interim relief. Accordingly we now proceed to deal with this application.

3. Mr.Walthare based his challenge to the application on five grounds. The first was that the relevant instructions in this regard (annexure - 3 at page 27 of the application), stipulated that the revised procedure that is required to be followed is that candidates should be selected not on the basis

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of the marks secured in the literacy test, but on the basis of total length of service. It was his submission that the 3 respondents were senior to all, or at least all except one, ^{of} ~~all~~ the persons who had found a place in the seniority list. We are unable to go along with Mr. Walthare in this submission. A plain reading of the instructions makes it clear that an essential pre-requisite is that the candidate shall qualify in the literacy test and all those who do so are required to be arranged not in order of merit but in order of seniority. The respondents have contended that the applicants did not ~~clarify~~ qualify in the literacy test. This position is fairly not disputed by the applicants. In view of this position we see no reason how the applicants can expect to be placed in the list of qualifying candidates and so in the list of successful candidates.

4. Mr. Walthare's second ground ^{Mr} ~~mentioned above~~ ^{Mr} for challenge was that the instructions referred to earlier require the respondents to intimate the total length of service of each candidate before actually holding the selections. The respondents have not disputed that no such specific notification was issued to each candidate, but Mr. Darda contended that the seniority list gave these details and that, therefore, no harm had been caused to the applicants in the absence of a specific notification to this effect to each candidate. We see considerable merit in Mr. Darda's submission on this point.

5. Mr. Walthare's third ground was that one of the persons in the seniority list, viz. D.G. Kawale, had been shown as an Other Community candidate whereas he was actually an S.C. candidate and had been so shown in the final result. The respondents have admitted the ^{error} ~~error~~ in the seniority list. But this error has not in any way affected the declared result. We are therefore, unable to conclude that any harm has been caused to the applicant by this inadvertent error which was subsequently corrected.

6. Mr.Walthare's fourth ground was that the respondents had amended the results by deleting the name of one Kum.Prema Ramteke and substituting it by one Kum.S.R.Karpate. Mr.Darda clarified that this was due to a discrepancy in date of initial appointment which, incidentally, is the subject matter in O.A.670/90 also before this Bench. It was his contention that, whatever might be the result in O.A. 670/90, this correction did not in any way whatsoever affect the respondents. There was no way in which the respondents could find a place in the list of approved candidates because they had failed to qualify in the literacy test. Against this background we are unable to see any merit in Mr.Walthare's submissions on this point.

7. Mr.Walthare's final submission was that denial of regular scales of pay to the applicants constituted exploitation of casual labour. We are unable to go along with Mr.Walthare's submission in this regard. When the instructions pertaining to recruitment required the candidates to qualify themselves in a particular test and when the candidates, after being given adequate opportunity to appear in such^a test, fail in that test they cannot make a grievance that they have been denied regular appointment.

8. In this view of the matter we see no merit in the application.

9. The application is accordingly dismissed. In the circumstances of the case there will be no order as to costs.

T.C.R.
(T.C.REDDY)
MEMBER(J)

P.S.Chaudhuri
(P.S.CHAUDHURI)
MEMBER(A).