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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

O.A. NO: 796
T.A. NO:

1991

DATE OF DECISION 11-3-91

V. G. Sureshwar Kothari Petitioner

Sri P. C. Nayabkumar Advocate for the Petitioners

Versus

U. G. I. Kothari Respondent

Sri Ramsh Darda Advocate for the Respondent(s)

CORAM:

The Hon'ble Mr. Hon. Mr. Justice V. C. Srivastava, J.C.

The Hon'ble Mr. M. Y. Pralhar, Member(A)

By Hon. Mr. Justice V. C. Srivastava, J.C.

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ? 4
3. Whether their Lordships wish to see the fair copy of the Judgement ? N
4. Whether it needs to be circulated to other Benches of the Tribunal ? N

mbm*

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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL, BOMBAY BENCH
CIRCUIT BENCH : NAGPUR

Registration O.A.No. 846 of 1991

V.G. Saneshwar & Others....

Applicant

Vs.

Union of India & Others....

Respondents

Coram:

By Hon'ble Mr. Justice U.C. Srivastava, V.C.

Hon'ble Mr. M.Y. Priolkar, Member(A)

Appearances:

Sri P.C. Marpakwar for the applicant and

Sri Ramesh Darda for the respondents

By Hon'ble Mr. Justice U.C. Srivastava, V.C.

Dated : 11th March, 1992

By means of this application the applicant has prayed for issuance of order or direction quashing the communication dated 4th January, 1990 whereby the criteria for appointment has been changed and it has been informed that the names of the applicants will not be considered for appointment as Labourer(Unskilled). He also prayed for issuance of order or direction requiring the respondents to appoint the applicants as Labourers(unskilled) in pursuance of their interviews as and when the vacancies occur, before outsiders were appointed. Sri Ramesh Darda who appears on behalf of the respondents that the stands of the department is the same which was taken by the High Court when the applicant filed the Writ Petition which was dismissed on the ground that Central Administrative Tribunals Act has come into force. As such this application was to be decided by the Central Administrative Tribunal.

A copy of the Counter Affidavit which was filed by the respondents has also been placed on record. Accordingly the application ^{is} being disposed of on the basis of said Written Statement and on the basis of the arguments. As according to Sri Ramesh Darda, Counsel for the respondents this is the stand of the department, Admit.

2. The applicants belongs to the batch of 222 candidates who were selected for the post of labourer and were intimated accordingly. Some 200 candidates were appointed and only 22 candidates remains. In the meantime it was informed that due to imposition of new policy of recruitment only Matriculate with age limit of 30 years will be considered for appointment, and in view of this the 22 candidates including the applicants were informed that their cases cannot be considered for appointment. It has been stated by the applicants that all the candidates were fulfilling the qualifications when they were interviewed and selected for appointment to the post of Labourer(Unskilled) and the respondents cannot apply the new rules retrospectively to the selections already made and a list prepared in pursuance thereof. It was further stated by the applicant that many of the candidates were informed that their names will be considered for the post of Labourer when the ban on recruitment is lifted and the vacancies are created. The applicants have filed a Writ Petition before the Bombay High Court which was dismissed. Thereafter they have approached the Tribunal.

3. The stand of the department is that in view of the change in requisite qualifications it will not be possible for the department to appoint these persons ^{these} But out of 22 persons 10 of them fulfilled the requisite qualifications as per new rules and they will be appointed as and when vacancies occur. So far as the other 12 persons

no assurances have been given to them. Accordingly they cannot be appointed. When the selection was made all these applicants were fulfilling the requisite qualifications and they were thus entitled to be appointed in case the rule would not have been amended. The rule was amended subsequently and the qualification changed thereafter. It is a settled condition of law that in case the rules came subsequently and those who were qualified and earlier/were entitled for appointment in respect of the vacancies or the existing vacancies which would occur within a particular period, the new qualification will not stand a bar. In this connection reference may be made to the cases of Y.Y. Bangia Vs. State of Andhra Pradesh 1983 SC page 883 & T. Nagesh Kutti Vs. State of Karnataka AIR 1990 SC 1233. ^{N. H. Deyan} ^{Public Service Commission}

Accordingly the respondents are directed to give due appointment to the remaining 22 persons notwithstanding the fact that the qualification has changed as and when vacancies arise. With these observations the application is disposed of finally. There will be no order as to costs.


Member(A)


Vice-Chairman.

11th March, 1992, Nagpur.

(sph)