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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

Original Application No: 41/95.

Date of Decision: 3/6/99.

Shri Sunil pandharinath sasane Applicant.

Shri S.P. Kulkarni Advocate for
Applicant.

Versus

Union of India & 3 Ors. Respondent(s)

Shri S.S. Karkera Advocate for
Respondent(s)

CORAM:

Hon'ble Shri. Justice R.G. Vaidyanatha, Vice Chairman.

Hon'ble Shri. D.S. Baweja, Member (A).

(1) To be referred to the Reporter or not? *no*

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

abp.

R.G. Vaidyanatha
(R.G. VAIDYANATHA)
VICE CHAIRMAN

CENTRAL ADMINISTRATIVE TRIBUNAL

GULESTAN BLDG.NO.6, 4TH FLR, PRESCOT RD, FORT,

MUMBAI - 400 001.

ORIGINAL APPLICATION NO:41/95.

DATED THE 3RD DAY OF JUNE, 1999.

CORAM:Hon'ble Shri Justice R.G.Vaidyanatha, Vice Chairman.

Hon'ble Shri D.S.Baweja, Member(A).

Shri Sunil Pandharinath Sasane,
Then working as:E.D.B.P.M.,
Tisgaon Branch Office, Khedgaon S.O.,
Tisgaon, Tal-Dindori,
Residing at:Tisgaon (Khedgaon),
District-Nashik-422 205.

... Applicant.

By Advocate Shri S.P.Kulkarni.

v/s.

Union of India

Through:

Senior Superintendent of Post Offices,
Nashik Division,
Nashik-422 001.

2. Postmaster General,
Aurangabad Region,
Aurangabad.

3. Ashok Narhari Vaidya,
Branch Post Master, Tisgaon,
At P.O.Tisgaon, (Khedgaon),
Tal.Dindori.
District-Nashik-422 205.

4. Assistant Superintendent of Post Offices,
North Nashik Sub-Division, Nashik-1. ... Respondents.

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

I O R D E R

[Per Shri R.G.Vaidyanatha, Vice Chairman]

This is an application filed under section-19
of Administrative Tribunals Act. The respondents have filed
reply. We have heard the counsels appearing on both sides.

The applicant ~~was~~ was working as EDBPM at Tisgaon
Branch Office from 12/8/93 to 15/10/94 as a stopgap arrangement.
A notification was issued for regular selection. The applicant
responded by sending his application. The department also
simultaneously sent letter to Employment Exchange who sponsored

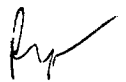


4 candidates. It appears the department did not consider the applicant's case but considered the 4 candidates who were sponsored by Employment Exchange and then selected respondent No.3 and appointed him as EDBPM. Being aggrieved by the action of respondents, the applicant has approached this Tribunal.

Respondents in their reply have stated that since 4 candidates were sponsored by Employment Exchange, only those candidates were considered and respondent No.3 being meritorious was selected.

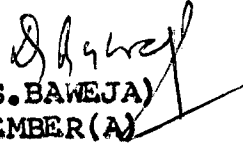
2. After hearing both sides, we find that there is some irregularity in the action of the respondents in selecting respondent No.3. The Department issued public notification dated 23/8/93, when the applicant applied for the post. The Department sent a requisition on the same day to Employment Exchange calling nominations of candidates. The Employment Exchange nominated the candidates by its letter dated 5/10/93 which was far beyond 30 days as required by rules. As per rules, the Employment Exchange has to nominate candidates within 30 days from the date of receipt of requisition. If no such names are received, then in department can go for public notification. Since in this case the Employment Exchange did not respond within 30 days, the department could not have ignored the application of the applicant for the job in question. Even after receipt of nominations of 4 candidates from Employment Exchange belatedly, the department should have considered both sets of candidates and should have been chosen as per merit. Unfortunately, this has not been done in this case.

3. Now the question is whether in view of this irregular ^{procedure} appointment of respondent No.3 is to be quashed and direction to be given for fresh selection according to law. The learned counsel for applicant, Shri S.P.Kulkarni, fairly submitted that since respondent No.3 was appointed in 1993 and has already put in 5 to 6 years service, he does

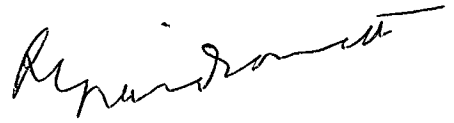


not want to unsettle a person who is settled and he will be satisfied if the department is directed to consider the case of the applicant for future vacancies according to law. Even the learned counsel for respondents, Shri S.S.Karkera, on instructions submitted that applicant's case will be considered for future vacancies as per rules. Therefore, without disturbing respondent No.3, the application is being disposed of with suitable direction.

4. In the result, the OA is allowed partly, ^{while} not disturbing the appointment of respondent No.3, we direct that whenever any future vacancy arises in Nasik sub Division, in Nasik North, and ^{if} applicant applies for the same, his case may be considered as per rules and on merits. In the circumstances of the case, there will be no orders as to costs.


(D.S. BAWEJA)
MEMBER (A)

abp.


(R.G. VAIDYANATHA)
VICE CHAIRMAN