

(uu)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD.

O.A.No.601/89.

Date of Judgment 29.8.1991.

1. Mohd. Quadir Ali
2. M.Mohan
3. G.Yadagiri
4. Abdul Quadir
5. Kameswar Rao
6. G.Pratap Reddy
7. Mohd. Afzaluddin
8. Rajender Kumar
9. N.Kishanlal
10. D.Ravinder
11. Durgadassa
12. Yousuf Ali

.. Applicants

Vs.

1. Union of India,
rep. by the Secretary,
Min. of Communications,
New Delhi.
2. The Manager,
P&T Motor Service,
Hyderabad-500001.

.. Respondents

Counsel for the Applicants : Shri K.G.Kannabiran

Counsel for the Respondents : Shri N.R.Devaraj,
Addl. CGSC

CORAM:

Hon'ble Shri J.Narasimha Murthy : Member(Judl)

Hon'ble Shri R.Balasubramanian : Member(Admn)

{ Judgment as per Hon'ble Shri R.Balasubramanian,
Member(Admn) }

This application has been filed by Shri Mohd. Quadir Ali and 11 others under section 19 of the Administrative Tribunals Act, 1985 against the Union of India, rep. by the Secretary, Min. of Communications, New Delhi and another.

2. The applicants have been working as Casual Labour (Motor Cleaners) in Group 'D' posts in the P&T Motor Service, Hyderabad from periods ranging from October, 1982 to November, 1988. Their names have been registered in the Employment Exchange but their names were not sponsored by the Employment Exchange when they were taken in on casual basis. Vide Memo No.49014/18/85-

9.2

KBR

15

Estt(C) dated 7.5.85 the Dept. of Personnel gave a one time relaxation exempting persons like the applicants from sponsorship by the Employment Exchange. Even before that letter the respondents initiated steps to fill up the posts of Cleaners on a regular basis and in the year 1983 they conducted a test. The applicants were not called since they were not sponsored by the Employment Exchange (Dept. of Personnel letter referred to above was not issued by that time). The applicants approached the High Court of Andhra Pradesh and by virtue of an interim order they were permitted and they appeared for the test but the results ~~had not been~~ ^{were not} published. The applicants point out that pursuant to the Hon'ble Supreme Court decision on 27.5.88 the Respondent No.2 issued proceedings directing the Cleaners/Pumpmen to submit their certificates for the purpose of absorption but nothing has happened in that direction. The applicants feel that in the light of the Hon'ble Supreme Court judgment and in the light of the Dept. of Personnel order of May, 1985 they are entitled to be absorbed on a regular basis and pray for a direction to the respondents to regularise their services.

3. The respondents have filed a counter affidavit and oppose the application. As early as in December, 1983 they approached the Employment Exchange to sponsor candidates to appear for the examination. The Employment Exchange sponsored a few names but none of the applicants was sponsored. The fact that the applicants approached the High Court and obtained an interim order ^{by} ~~but~~ virtue of which they were permitted to appear for the examination is admitted. It is pointed out that the writ petition before the High Court was finally dismissed on 14.4.87. Subsequently, this O.A. was filed before this Bench and by virtue of the interim order issued by this Bench the applicants were continued in service. Finally,

9.3

1/2

46

the results of the examination were announced on 4.8.89 based on merits of the examination held in December, 1983. None of the applicants had qualified in this test. The main argument of the respondents is that it is the examination held in 1983 that they want to act upon at least after crossing ~~of~~ the legal hurdles. It is pointed out that while the Dept. of Personnel letter dated 7.5.85 gave ~~them~~ exemption from sponsorship it nevertheless permits regularisation only if the candidates are found eligible. It is the contention of the respondents that the applicants having failed to make the mark ^{in the test} are not eligible.

4. We have examined the case and heard the learned counsel for the applicants and the respondents. The examination was held in December, 1983 and by virtue of an interim order of the High Court the applicants also appeared for the test. Due to various legal hurdles in the way of the respondents they could not publish the results and when the High Court finally dismissed the application ~~by the applicants~~ they were in a position to publish the results but before that this Tribunal intervened and stalled the matter further. Hence they could publish the results only in 1989 and the applicants who appeared for the test are not found eligible. The candidates who were successful in the test held in December, 1983 have already acquired a right by their success in the test and that examination cannot be considered irrelevant as claimed by the applicants. The respondents are, therefore, bound to accommodate those who were successful in the December, 1983 examination. At the same time, the applicants, ~~however,~~ come within the scope of the scheme to be prepared by the

Rb

3/11/89

(47)

- 4 -

Department in the light of the judgment of the Hon'ble Supreme Court. Under these circumstances, we direct the respondents:

- (a) to appoint all the eligible persons out of the December, 1983 examination, after due formalities.
- (b) to consider the cases of the applicants in the light of the scheme prepared pursuant to the decision of the Hon'ble Supreme Court, before resorting to outside recruitment in view of the long service the applicants had put in whatever the reasons may be.

5. The application is disposed of thus with no order as to costs.



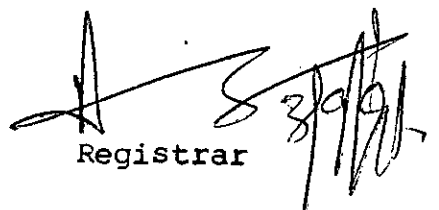
(J.Narasimha Murthy)
Member(Judl).



(R.Balasubramanian)
Member(Admn).

2b

Dated 29th August 91



Registrar

To

1. The Secretary, Union of India, Min.of Communications, New Delhi.
2. The Manager, P&T Motor Service, Hyderabad-1.
3. One copy to Mr.K.G.Kannabiran, Advocate ,10-3-29/2, East Marredpally, Secunderabad-26.
4. One copy to Mr. N.R.Devraj, Addl. CGSC. CAT.Hyd.
5. One copy to Hon'ble Mr.J.Narasimha Murty, Member(J)CAT.Hyd.
6. One spare copy.

pvm

Handwritten notes and signatures at the bottom left corner.