

(U)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:HYDERABAD BENCH

AT HYDERABAD

M.A.No.966/94
in 34/95
RA Sr.No.3049/94
in
OA No.1149/94

Date of order: 5-4-1995

Between

1. Union of India rep. by
Secretary to Govt. of India
Min. of Finance
Deptt. of Revenue
Central Board of Excise and Customs
New Delhi.

2. The Collector
Central Excise, Guntur.

.. Applicants

and

Mr M.A.Sattar

.. Respondent

Counsel for the applicant :: Mr NV Ramana, Addl.CGSC

Counsel for the Respondents :: Mr KSR Anjaneyulu

CORAM: HON'BLE SHRI A.V. HARIDASAN, MEMBER(JUDL.)

HON'BLE SHRI A.B. GORTHI, MEMBER(ADMN)

ORDER

As per Hon'ble Shri AV Haridasan, Member(J)

The respondents 1 and 2 in the above OA have filed this review application for a review of the final order passed in OA 1149/91 on 19.7.1994. OA 1149/91, OA 1175/91 and OA 1176/91 were heard by this Bench and were disposed of by a common order dated 19.7.1994. The applicant in the OA who had registered his name with the Employment Exchange, applied for the post of Sepoy in the Central Excise Department. Finding that his name was not sponsored by the Employment Exchange and he would, therefore, not be considered for selection, he filed writ petition before the High Court of AP. The learned single Judge directed the department to allow the applicant also to participate in the selection to the above post and to appoint him in case, he was selected. Writ appeal.

(12)

was preferred by the department against ~~this~~ this Judgement which was allowed on the ground that the High Court had no jurisdiction to entertain the application in regard to matters concerning appointment to a department of Central Government after the commencement of the Central Administrative Tribunals Act. However, pursuant to the interim order issued in the writ petition, the applicant was also considered for the selection and he was brought on the panel for appointment. Finding that he was not appointed despite the fact that he was empanelled, he filed the above, OA. It was contended by the respondents in the OA that in view of the rulings of the Supreme Court in Union of India Vs Hara Gopal and others, the applicant in the OA who was not sponsored by the Employment Exchange could not be considered for selection and appointment in the department.

2. By our Judgement dated 14.7.1994, placing reliance on the observation of the Supreme Court in Haragopal and others' case at paragraph 3 and 4 of the order sought to be reviewed, it was held that the applicant in this case, who had also registered his name in the Employment Exchange and who was also considered and selected, was entitled to be appointed to the post of which he was selected if he is not otherwise ineligible. Consequently, the application was disposed off with a direction to the respondents to appoint the applicant in the post of Sepoy for which he was selected after completing ^{with} the usual formalities within a period of three months from the date of communication of a copy of that order.

3. The review applicant states that certain similar applications were dismissed by the Bench, viz., OA 10/91, OA 1082/91 and OA 132/92 following the Judgement of the

Supreme Court in Haragopal and others' case and if a copy of such judgements had been brought to the notice of the Tribunal, the decision would have been different and that, on that ground, seek a review of the order dated 19.7.1994.

4. As the review application has been presented after a delay of 67 days, MA 966/94 has been filed for having the delay condoned. The reasons stated are that on account of official delay, the review application could not be filed in time.

5. We have perused the review application, the order sought to be reviewed and a copy of the papers annexed to the review application which is the copy of the Judgement in OA 609/89. The review applicant states that RA OA609/89 was a similar application dismissed by the Bench.

6. The facts in this case and in OA609/89 are not identical. In OA609/89, the applicant had prayed for a direction to the first respondent therein to consider his case for interview and appointment to the post of Sepoy along with other candidates sponsored by the Employment Exchange. In that case, the Employment Exchange was impleaded as the ~~xxx~~ second respondent. The employment exchange in their reply statement contended that the applicant there was not sponsored as a candidate as he was not due for sponsoring on account of his ~~x~~ lower place in the seniority list of registration. After considering the rival contentions, the Bench dismissed the OA 609/89 finding no merit and observing that in view of the ruling of the Supreme Court in Haragopal and others' case, sponsoring by the Employment Exchange was necessary for appointment under the Government.

..5..

To

1. The Secretary to Govt. of India,
Union of India, Min. of Finance,
Dept. of Revenue, Central Board
of Excise and Customs, New Delhi.
2. The Collector,
Central Excise, Guntur.
3. One copy to Mr.N.V.Ramana, Addl. CGSC,CAT,Hyderabad.
4. One copy to Mr.K.S.R.Anjaneyulu,Advocate, CAT,Hyderabad.
5. One copy to Library,CAT,Hyderabad.
6. One spare copy.

YLKR

7. In the case on hand, the applicant was allowed to appear in the interview pursuant to the interim order of the High Court and he was selected and kept in the panel of selected candidate for appointment as Sepoy. It was praying for a direction to the respondent to appoint him on the post for which he was selected that the applicant filed the OA. The District Employment Officer who did not sponsor the case of the applicant was also a party to the OA. But the employment officer did not file any reply. It was under these circumstances, noting that the applicant was interviewed and selected and placed in the panel and also the fact that the applicant was also considered along with those sponsored by the Employment Exchange which did not interfere with the chance of any person but only afforded a wider scope for selection, relying on the observations in Haragopal's case that the application was allowed by the orders of the Tribunal. There is no error apparent on the face of the record. There is no other reason which would justify a review of the order. Even if the Judgement of the Tribunal in OA 609/89 had been brought to the notice of the Bench, the decision would not have been different. Therefore, finding no merit in the review application both the RA and MA are rejected by circulation.

(A.B. GORTHY)
Member(Admn)

(A.V. HARIDASAN)
Member(Judl.)

Dated: _____ 1995

mvl

DEPUTY REGISTRAR(J)

CONTD...