

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH

AT HYDERABAD

ORIGINAL APPLICATION NO.1026/91

BETWEEN

Sri P. Narasimha

.. Applicant

A N D

1. The Collector of Customs and Central  
Excise, Basheerbagh, Hyderabad

2. The Assistant Collector,  
Central Excise Dvn.No.81, Hyderabad

3. The Distt. Employment Officer  
Hyderabad

.. Respondents

Counsel for the Applicant : Sri Gulam Rasool

Counsel for the Respondents : Sri NV Ramana, Addl.CGSC and  
Sri D.Panduranga Reddy  
SC for AP State

CORAM:

THE HON'BLE SHRI R. BALASUBRAMANIAN, MEMBER (ADMN)

THE HON'BLE SHRI T. CHANDRASEKHARA REDDY, MEMBER (JUDL.)

T. C. R.

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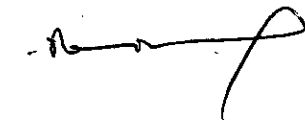
JUDGEMENT OF THE DIVISION BENCH DELIVERED BY THE  
HON'BLE SHRI T. CHANDRASEKHARA REDDY, MEMBER (JUDL.)

This is an application filed under Section 19 of the Administrative Tribunals Act to set aside clause (c) of the recruitment proceedings dated 11.10.91 of the Collector of Customs & Central Excise, Hyderabad and to direct the respondents to regularise the services for the post of Sepoy and pass such other orders as may seem fit and proper in the ~~xxxxxx~~ circumstances of the case.

The facts giving rise to this OA in brief are stated as follows:

The applicant at present, is working as Sweeper in the Second Respondent's office. He was appointed as Sweeper on 25.4.1990. But the applicant's name was not sponsored by the Employment Exchange, when he was appointed as Sweeper. But the applicant had registered his name in the Employment Exchange in the year 1987. The Regn.No. of the applicant in the Employment Exchange is 4061/87. The applicant had been continuously working from 25.4.1990, ever since he was appointed as Sweeper.

The respondent authorities contemplated the recruitment of candidates for the post of Sepoy vide their proceedings No.C.No.11/31/26/91-E. 5 Vol.II dated 11.10.91 prescribing the eligibility criteria for consideration of the post of Sepoy. Clause(c) of the said proceedings reads as follows:

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"(c) They should have been appointed in the offices of this Department after being duly nominated by the Employment Exchange prior to 1.8.1989."

It is the said clause that is being questioned by the applicant in this CA as being discriminatory and arbitrary.

Counter is filed by the respondents opposing this CA.

In the counter it is maintained that all the applicant should fulfil the conditions enumerated in the circular for the post of Sepoys in Central Excise. It is the condition of the respondent that unless the applicant had been sponsored by the Employment Exchange he cannot be considered for appointment as Sepoy. As already pointed out, even though the applicant's name had been registered in the year 1987 in the Employment Exchange with Regn.No.4061/87 and renewed upto date, in view of the impugned clause in the said proceedings the applicant will not be eligible for consideration for appointment to the post of Sepoy as he had not been nominated by the Employment Exchange prior to 1.8.1989/ for the post of Sweeper. Now, the question before us is whether the said clause to consider those candidates who are working as Sweepers in the office of the respondents and who are not appointed in the office of the respondents as ~~sweepers~~ sweepers after being duly sponsored by the Employment Exchange, would offend the equality clause as the respondents would consider only the names of those who were nominated by the Employment Exchange, prior to 1.8.1989.

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5. In a recent decisions of the Supreme Court reported in Judgements Today - JT 1992(1) SC 394 - Delhi Development Horticulture Employees' Union Vs Delhi Administration, Delhi and others - it is observed as follows:

"Although there is Employment Exchange Act which requires recruitment on the basis of Registration in the Employment Exchange, it has become a common practice to ignore the Employment Exchange and the persons registered in the Employment Exchanges and to employ and get employed directly those who are neither registered with the employment exchange or <sup>who</sup> though registered are lower in the long waiting list in the Employment Register. The courts can take judicial notice of the fact that such employment is sought and given directly for various illegal considerations including money ....."

6. So, in view of the said observations of the Supreme Court, we have least difficulty to come to the conclusion that clause (c) of the said proceedings is legal and valid. Nevertheless by 1.8.1989 if the applicant had been working as Sweeper in the office of the respondents there might have been ~~some~~ some scope for us to consider the case of the applicant and interfere. Admittedly, the applicant is employed as Sweeper only w.e.f. 25.4.1990. So such period of service as sweeper as might be required to consider the case of the applicant for appointment as Sepoy, the applicant may not be possessing. So, in view of this position, no writ could be issued to the respondents as the applicant was not appointed in the office of the

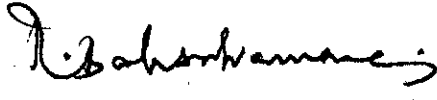
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respondents, duly sponsored by the Employment Exchange. Hence, this OA is liable to be rejected and we reject this OA under provisions of the Central Administrative Tribunals, Act. In the circumstances of the case, we make no order.

  
(R. BALASUBRAMANIAN)  
Member (A)

  
(T. CHANDRASEKHARA REDDY)  
Member (Judl.)

Dated:

2 April 1992

  
Dy. Registrar (Judl.)

Copy to:-

1. The Collector of Customs and Central Excise, Basheerbagh, Hyderabad.
2. The Assistant Collector, Central Excise Dvn. No. II, Hyderabad.
3. The District Employment Officer, Hyderabad.
4. One copy to Sri. Gulam Rasool, advocate, CAT, Hyd.
5. One copy to Sri. N.V. Ramana, Addl. CGSC, CAT, Hyd.
6. Copy to All Benches & Reporters as per standard list of CAT, Hyd.
7. One spare copy to Sri D. Panduranga Reddy Spl. Counsel for A.P. State
8. one spare copy.

Rsm/-

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24/12  
O.A. 1026/91  
TYPED BY

COMPARED BY

CHECKED BY

APPROVED BY

(Typing)

THE HON'BLE MR. \_\_\_\_\_

V.C.

AND

THE HON'BLE MR. R. BALASUBRAMANIAN: M(A)

AND

THE HON'BLE MR. T. CHANDRASEKHAR REDDY:  
MEMBER (JUDL)

AND

THE HON'BLE MR. C. J. ROY : MEMBER (JUDL)

Dated: 2/4/-1992.

ORDER / JUDGMENT ✓

R.A./C.A./M.A.No.

in

O.A.No.

1026/91

T.A.No.

(W.P.No. \_\_\_\_\_)

Admitted and interim directions  
issued

Disposed of with directions

Dismissed ✓

Dismissed as withdrawn

Dismissed for Default.

M.A. Ordered/Rejected

No order as to costs.

Central Administrative Tribunal

DESPATCH

7/5/92

HYDERABAD BENCH.

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