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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH  
AT HYDERABAD

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O.A. Nos. 1149/91,  
1175/91 & 1176/91.

Dt. of Decision : 19.7.94.

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|---------------------------|----------------------------------|
| 1. Mr. S. A. Sattar       | .. Applicant in<br>O.A.1149/91.  |
| 2. Mr. M. Nageswara Sarma | .. Applicant in<br>O.A. 1175/91. |
| 3. Mr. P. Ravi Kishore    | .. Applicant in<br>O.A. 1176/91. |

Vs

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|---|-----------------------------------|
| 1. Union of India, rep. by<br>the Secretary to Govt. of India<br>Ministry of Finance, Dept. of<br>Revenue, Central Board of Excise &<br>Customs, New Delhi. |                                   |
| 2. The Collector of Central Excise,<br>Guntur.  |                                   |
| 3. The District Employment Officer,<br>Guntur.  | .. Respondents in<br>all the OAs. |

Counsel for the Applicants : Mr. K.S.R. Anjaneyulu  
(in all the OAs)

Counsel for the Respondents : Mr. N.V. Ramana, Addl. CGSC.  
(in OA.Nos.1149/91 & 1176/91)  
Mr. N.R. Devaraj, Sr. CGSC.  
(in OA. 1175/91)  
Mr. D. Panduranga Reddy,  
Spl. counsel for A.P.,  
(in all the OAs.)

CORAM:

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

THE HON'BLE SHRI A.B. GORTHY : MEMBER (ADMN.)

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O.A.Nos.1149/91, 1175/91 & 1176/91

{ As per Hon'ble Shri A.V.Haridasan, Member (Judl.) }

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All these 3 cases can be disposed of by a common order, as the facts and the question of law involved are identical. The applicants whose names were registered with the Employment Exchange applied for appointment to the post of Sepoy in the Central Excise Department. They had also requested the District Employment Officer, Guntur (3rd respondent in these cases) to sponsor their names for consideration. However, the District Employment Officer did not sponsor their names. Therefore when the interview was nearing the applicants in OA.1149/91 filed W.P.No. 14586/89 and the applicants in the other two cases filed another W.P.No.15461/89 before the High Court of A.P. for a direction that they should also be considered for selection. Pursuant to the interim order the applicants were also interviewed. Ultimately the Writ Petitions were allowed directing that the applicant should be appointed if they were successful in the selection process. The decision of the Single Judge was challenged before a Division Bench in W.A.661/91 and 664/91. These Writ Appeals were allowed by the Division holding that the High Court did not have jurisdiction to entertain the grievance relating to selection and appointment to Central Government servants. However, in the judgement it was observed that it would be open for the persons who were selected to move Central Administrative Tribunal for appropriate relief. Since the applicants were not appointed to the post for which they were selected in the selection process they have filed these 3 applications praying that the respondents

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be directed to appoint them as Sepoys in the Central Excise Department pursuant to their selection.

2. The applications are opposed by the respondents. They contend that the applicants not having been sponsored by the Employment Exchange, had no right to be considered for selection and that their selection on the basis of an interim order issued by the High Court in Writ Petition which were finally dismissed for want of jurisdiction did not confer on them any right for appointment. We have perused the materials on record and also heard the learned counsel for both the parties.

3. The learned counsel for the respondents with considerable vehemence argued that appointment to public service otherwise than through Employment Exchange, being a back door entry has been deprecated by the Honourable Supreme Court in various judgements. He invited our attention to the judgement of the Supreme Court in Union of India and others Vs. Hara Gopal and others, wherein the desirability of appointments being made through Employment Exchange has been highlighted. But in the very same judgement the Supreme Court observed as follows:-

" It is, therefore, clear that the object of the Act is not to restrict, but to enlarge the field of choice so that the employer may choose the best and the most efficient and to provide an opportunity to the worker to have his claim for appointment considered without the worker having to knock at every door for employment. We are, therefore, firmly of the view that the Act does not oblige any employer to employ those persons only who have been sponsored by the employment exchanges".

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4. From the above observation it is evident, that if in addition to persons sponsored by the Employment Exchange some other persons also have been considered, such consideration does not become illegal. Here is a case where the applicants along with others who were sponsored by the Employment Exchange were subjected to a selection process. It was pursuant to a direction by the High Court that the applicants were provisionally allowed to participate in the selection. Nobody's <sup>right</sup> ~~request~~ has been adversely affected by allowing the applicants to participate in the selection process. The merits of the applicants have been adjudged vis-a-vis other candidates and they ~~have~~ been included in the list of selected candidates being meritorious. It could be uncharitable and unjust to deny them employment for the simple reason that their names were not sponsored by the employment exchange. Though the District Employment Officer is also a party to these applications in the reply statement filed on behalf of all the respondents nothing is stated as to why the applicants names were not sponsored ~~as such~~ by considering the applicants also, what has happened is a widening of the field of choice which enabled the selection of candidates of better merit. It has also come out from the counter statement that another person who was not sponsored by employment exchange was selected and appointed. <sup>Therefore</sup> ~~for~~, we are of the considered view that the applicants are also entitled to be appointed to the posts for which they have been selected if they are not otherwise ineligible.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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5. In the result in view of what is discussed above all the three applications are ~~therefore~~ <sup>are</sup> allowed and the respondents are directed to appoint the applicants for the post of Sepoy for which they ~~have~~ <sup>were</sup> selected after comply with <sup>with</sup> the usual formalities within a period of 3 months from the date of communication of this order. <sup>if they are not otherwise ineligible</sup> No order as to costs.

(A.B. GORTHI)  
Member (Admn.)

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

Dated: 19th July, 1994

( Dictated in Open Court )

DEPUTY REGISTRAR(J)

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Copy to:

1. The Secretary to Govt. of India, Union of India, Ministry of Finance, Dept. of Revenue, Central Board of Excise & Customs, New Delhi.
2. The Collector of Central Excise, Guntur.
3. The District Employment Officer, Guntur.
4. One copy to Mr.K.S.R.Anjaneyulu, Advocate, CAT, Hyderabad.
5. One copy to Mr.N.V.Ramana, Addl.CGS<sup>C</sup>, CAT, Hyderabad.
6. One copy to Mr.D.Panduranga Reddy, Spl.SC for A.P.
7. One copy to Mr.N.R.Devraj, Sr.CGSC, CAT, Hyderabad.
8. One copy to Library, CAT, Hyderabad.
9. One spare copy.

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for 29/7/94.