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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

Miscellaneous Application No. 307/96

IN
Original Application No. 662/95.

Dt. of Order: 21-6-96.

Between :-

1. Union of India
Rep. by the Secretary,
Ministry of Defence,
New Delhi - 1.
2. The Commandant
(O i/c Civil Administration),
Air Force Academy,
Dundigal Post, Hyderabad - 500 043.

....Applicants/Respondents

And

1. Smt. D. Suryakala
2. Smt. T. Sharada
3. Smt. M. Jayamma

....Respondents/Applicants

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Counsel for the Applicants : Shri Kota Bhaskar Rao, Addl. CGSC

Counsel for the Respondents : Shri T. V. V. S. Murthy

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CORAM:

THE HON'BLE JUSTICE SHRI M.G.CHAUDHARI : VICE-CHAIRMAN *Keel*

THE HON'BLE SHRI H.RAJENDRA PRASAD : MEMBER (A) *Q*

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(Orders per Hon'ble Justice Shri M.G.Chaudhari,
Vice-Chairman).

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The original Respondents applied for vacating the interim stay granted in the O.A. on 25-5-95. The three applicants contend that they are entitled to be considered for appointment as Women Cadet orderlies under the Respondent No.2 but that even so the Local Employment Exchange ^{has} not sponsored their names. The Respondent No.2 is not considering their candidature and ^{is} proceeding with selecting other women candidates sponsored by the Employment Exchange at the selection being made for five vacancies of Women Cadet Orderlies, they have joined the District Employment Exchange, Medak District as a respondent. The relief sought by the applicants is firstly to direct the Respondent No.3 to sponsor their names to Respondent No.2 for consideration and Selection to the vacancies of Women Cadet Orderlies. Further to direct the Respondent No.2 to issue interview pass to them and consider their candidature. The condition that the names have to be sponsored by the Employment Exchange in the first instance is undisputed. Until the names of the applicants were sponsored, the Respondent No.2 ^{did} not come into the picture. However, the applicants prayed for interim relief only in respect of Respondent No.2 seeking a direction to him to call them for interview and consider their candidature for selection. No interim direction was sought against the Employment Exchange to sponsor their names assuming that such a request could be made. The earlier Bench which issued

notice before admission and considered the request for interim relief directing that "until further orders the Respondent No.2 should not consider the case of the candidates who do not belong to the villages referred to in the requisition issued by him to Respondent No.3". That order was passed on 25-5-95. It is this order which is sought to be ^{got} vacated by the respondents.

2. The case of the applicants as set out in the O.A. is that they are residents of surrounding villages of Air Force Academy and their lands have been acquired by the Academy with an assurance of providing employment to the families and that the applicants have registered their names at Medak Employment Exchange at Sanga Reddy. The applicants have further averred that the respondent No.2 had requested the District Employment Officer to sponsor the names of individuals who are the residents of the villages surrounding the academy. They maintain that they are the residents of the villages surrounding the Academy. Their grievance is that they were therefore required to be sponsored ^{the} and as this Employment Exchange did not sponsor their names and the names sponsored were not in terms of the requisition made by the Respondent No.2, The ^{the} Selection of the candidates other than the applicants being held as illegal. At the time of issuing the interim orders, the Bench prima facie acted on the averment that none of the candidates sponsored by the Respondent No.3 belong to the villages referred to in the requisition issued by the Respondent No.2.



3. We are unable to appreciate as to how it was assumed that in the requisition issued by the Respondent No.2 the condition of residents had been mentioned as we do not find any copy of that requisition being annexed to the O.A. Likewise no particulars relating to the individuals who have been sponsored by the Employment Exchange have been given in the O.A. in support of the assertion that was made that none of the candidates sponsored by the Respondent No.3 belong to the adjoining villages. Interim order therefore, with respect, was based on unsubstantiated ^{unilateral} allegations made by the applicants. The order can be continued only if even at this stage the applicants are able to substantiate the grounds stated in the O.A.

4. Firstly turning to the contention that applicants were entitled to be considered on the basis of assurance given by the Academy when their lands were acquired that they would be provided employment, the applicants ~~however~~, are blissfully silent about what lands, of what applicants and when were acquired by the Academy. They are equally silent about the so called assurance given by the respondents, the manner in which it was given, ^{or by whom it was given} and whether it was oral/written assurance. No material is produced even at this stage to substantiate ~~this~~ averments.

5. The Respondents 1 and 2 have filed their reply in the O.A. In para-5 of the reply it ^{is} stated as follows :-

"It is completely incorrect to say that lands of the families of the applicants have been acquired for the use of Academy with an assurance



to provide employment to the members of the families".

Although the manner in which this statement is couched

~~denial of~~ may not amount to ~~deny~~ the fact that the lands were acquired.

~~it~~ It is sufficient to read as denying any assurance having been

given. The applicants who have filed a Rejoinder have neither asserted therein nor shown that this statement relating to no assurance being given is wrong or false. In the absence of any

particulars being given as to what lands of which applicant

from which village was acquired and when it was acquired and

~~that~~ any material to show ~~any~~ assurance was extended by Respondent

No.2 at that time and ~~without showing that particulars along~~

~~with assurance~~, it is not possible to accept the general

averments made by the applicants and to proceed on the assumption

that such an assurance was given. Hence the first ground

urged by the applicants does not justify any interim order as

prayed to be granted to them.

6. Turning to the next ground viz., that the request made

by the Respondent No.2 to the Employment Exchange ^{was} to sponsor

the names of residents of surrounding villages only. The

Respondents (1 and 2) have denied that any such condition was

indicated in the requisition made to the employment exchange.

In para-5 of the reply it is stated in this connection as

follows :-

"There is no truth in the applicants contention that the Air Force Academy requested the Employment Exchange, Sanga Reddy District, to sponsor the names of the individuals whose residences are in surrounding villages.

The Employment Exchanges both Ranga Reddy and Sanga Reddy Districts have been requested to sponsor the candidates in proportion of 1 : 5 only without any rider like residents of surrounding villages as claimed by the applicants".

In the absence of any material to show to the contrary, we see no reason as to why we should not believe the aforesaid statement of the Respondents 1 and 2.

7. In the rejoinder, the applicants have tried to wriggle out of this position by producing Lr.No.AFA/8004/2/PC dt.25-4-95 addressed to the Employment Officer, Medak District, by the Academy, which appears to be a letter issued in connection with earlier letter dt.9-2-95. It has been stated as follows :-

"The Air Force Academy is surrounded by the villages of Ranga Reddy District. Hence you are requested to forward the names of individuals whose residences are located in these villages to consider them for employment of Women Cadet Orderlies".

This letter was not produced along with O.A. It cannot have therefore ^{been} noticed by the Bench when the interim orders were passed. The assumption therefore made in the order was regarding to the original requisition dt.9-2-95. That requisition however ^{has} not been produced. It is too late in the day to rely on this letter dt.25-4-95. The applicants did not seek any direction against the respondents by way of an interim order to produce the letter dt.9-2-95. So that the contents thereof could be considered before the interim order

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was passed. As stated earlier there was not even such a prayer made in the clause relating to interim relief in the O.A. The learned counsel for the applicants submitted that since it was internal correspondence between the two departments, the applicants could not have access to the letter

✓ dt.9-2-95. This submission ~~loses all its force~~ ~~loss of its fate~~ when the applicants ~~could~~ produced an internal correspondence letter ~~without~~ ^{the} letter ~~without explaining as to~~ ~~able to explain how they could manage to produce~~ ^{the} letter

dt.25-4-95. Learned counsel for the applicants submits that he had shown this letter dt.25-4-95 to the Bench and it was considered when the interim order was passed. Shri Kota

✓ Bhaskar Rao who had also appeared for the respondents stated ^{at that stage} that he was not shown this letter and he has not in a position to say whether it was shown to the Bench or not. If this letter had been taken notice of and was relied upon we should have expected a reference ^{to} of the same in the order or atleast ~~should have been~~ a copy thereof found contained in the record. In the absence ^{it is difficult to say} thereof that the interim order was based on this letter.

8. However even assuming that the letter dt.25-4-95 may have been taken into account and can also be taken into account, it does not help to ^{draw} the inference that persons not residing in the surrounding villages were ineligible for sponsoring. The intention was only to call for the names of residents of surrounding villages if that was possible.

Unless there was a condition ⁱⁿ of the recruitment rules or the ~~desired~~ ^{alleged} assurance was found to be given merely because the respondents ~~decided~~ local residents to be sponsored, it does

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flow therefrom that the applicants had acquired a legal right.

In the rejoinder, it has been stated that the employment

officer, Sanga Reddy District, had sponsored 40 candidates

as against 25 candidates required by the Respondent No.2. The

✓ applicants have ~~not~~ ^{not} stated that ~~not~~ even five candidates were

residents of surrounding villages. As stated earlier no

particulars of the 40 candidates have been furnished to

determine that they were not local residents. It is stated that

it was not possible for the applicants to know the particulars

✓ of all the candidates. If that being the position, it is

surprising as to how the applicants allege in the O.A. that

the candidates from the surrounding villages have been ignored

✓ simply because the applicants claim to be ^{the} residents of

surrounding villages. That apart, the letter dt. 25-4-95 was

in the shape of a request to the Employment Exchange and if

the Employment Exchange has not forwarded the names of the

applicants, the blame would lie with the Employment Exchange

and not with the Respondent No.2. As stated earlier it was

✓ ~~not~~ open to the applicants to seek a direction against Employment

Exchange to clarify as to why the names of the applicants

were not sponsored despite the letter of the Academy dt. 25-4-95

to ~~sparekka khaik names~~ support their claim for interim relief

as they had obtained. No such step has been taken and we would

not be justified in making ^a concessions in favour of the appli-

✓ ^{at this stage} cants and maintain the interim order.

9. The Respondents 1 and 2 have submitted that the names of the applicants do not figure in the list of candidates

received from the Employment Exchange, Sanga Reddy District and therefore they had not been called for interview. They have also explained that under the recruitment rules, the appointments have to be made only from amongst candidates sponsored by the Employment Exchange and no relaxation in that behalf is permissible. No ~~effort~~ ^{fault} therefore ~~could be~~ ^{can be found} ~~with~~ ^{not} found for the respondent No.1 and if they have/~~been~~ called the applicants for interview as their names have not been sponsored by the Employment Exchange. The interim order is blocking the selection process and appointment of eligible candidates to the posts of Women Cadet Orderlies without the applicants being justified in doing so. The reply of the Respondents 1 and 2 shows that in view of the interim order the interviews scheduled on 20-6-95 have been kept in abeyance. We are of the opinion that by obtaining the interim order of the nature as issued, the applicants have caused considerable harm to the Academy by stopping them ^{from} appointing the Women Orderlies ~~Candidates~~ since the day of interim orders till now. That has also resulted in causing serious prejudice to woman ~~when the need is to provide adequate~~ ^{other} ~~and~~ ~~cadet candidates~~ ~~all along the women are given adequate representation to women in public employment~~ ^{representation in public employment}.

10. Apart from all the aforesaid grounds, we think that at the highest, the applicants could have claimed an order in their ~~waive~~ favour viz., to make their candidature available for consideration by the Respondent No.2 but they had no business to come in the way of other candidates. In the light of the foregoing discussion, we are of the view that the OA

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has no merit and the interim order was not in aid of protecting their any interest. That the applicants do not deserve interim the indulgence of continuing the interim order. The order dt.25-5-95 is therefore vacated. The Respondent No.2 will be free to proceed with the selection process.

11. M.A. is allowed. No order as to costs.

H.Rajendra Prasad

(H.RAJENDRA PRASAD)
Member (A)

M.G.Chaudhary

(M.G.CHAUDHARI)
Vice-Chairman

Dated: 21st June, 1996.
Dictated in Open Court.

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M.G.Chaudhary
Deputy Registrar (D)

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To

1. The Secretary, Ministry of Defence,
Union of India, New Delhi-1.
2. The Commandant, (OIC Civil Administration)
Air Force Academy, Dundigal post, Hyd-43.
3. The District Employment Officer,
District Employment Exchange,
Sangareddy, Medak Dist.
4. One copy to Mr.T.Jayant, Advocate, CAT.Hyd.
5. One copy to Mr.K.Bhaskar Rao, Addl.CGSC.CAT.Hyd.
6. One copy to Library, CAT.Hyd.
7. One spare copy.

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APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR.JUSTICE M.G.CHAUDHARI
VICE-CHAIRMAN

AND

THE HON'BLE MR.H.RAJENDRA PRASAD:M(A)

Dated: 21 - 6 - 1996

ORDER/JUDGMENT

M.A./R.A/C.A.No. 307/96

in

O.A.No. 595/96 662/96

T.A.No. (W.P.)

Admitted and Interim Directions
issued.

MP
Allowed.

Disposed of with directions

Dismissed

Dismissed as withdrawn

Dismissed for Default.

Ordered/Rejected.

No order as to costs.

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