

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

ORIGINAL APPLICATION NO.1046/99

DATE OF ORDER : 21-07-1999.

Between :-

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|-------------------|--------------------------|
| 1. G.Jagan Mohan | 6. T.Sridevi |
| 2. K.Umavathi | 7. E.V.Lakshmana Rao |
| 3. R.Satya Rao | 8.Kolyada Krishna Murthy |
| 4. B.Shanmukh Rao | 9.Botla Appala Raju |
| 5. S.Sadasiva | 10.Bandaru Ramakrishna |
| | ... Applicants |

And

1. Flag Officer Commanding-in-Chief,
Eastern Naval Command, Visakhapatnam.
2. Director, Civilians Personnel (DCP),
Personnel & Administration, Naval
Headquarters, Sena Bhavan,
New Delhi.

... Respondents

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Counsel for the Applicants : Shri K.Sudhakar Reddy

Counsel for the Respondents : Shri K.Narahari, CGSC

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CORAM:

THE HON'BLE JUSTICE SHRI D.H.NASIR : VICE-CHAIRMAN

THE HON'BLE SHRI R.RANGARAJAN : MEMBER (A)

(Order per Hon'ble Shri R.Rangarajan, Member (A)).

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(Order per Hon'ble Shri R.Rangarajan, Member (A)).

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Heard Sri K.Sudhakar Reddy for the applicants and Sri K.Narahari, Standing Counsel for the Respondents.

2. There are 10 applicants in this O.A. They are unemployed youths and applied for the post of Asst. Store Keeper in response to the notification No.CE/2100/2/1 issued in the Employment News Magazine of 29th August to 4th September, 1998 (Annexure-1 page-10 to the OA). They belong to OBC community. The above mentioned notification was issued for filling up 30 posts of Asst.Store Keeper comprising of 13 ST vacancies, 11 OBC vacancies and 6 unreserved vacancies. The applicants submit that they are not called for the written test and further submit that the examination is likely to be conducted on 24th of this month or at a later date. Hence they should be issued with the call letters urgently.

3. This OA is filed for a declaration that the action of the respondent authorities in calling the candidates who are having first class in the Matriculation for the written test for the post of Asst.Store Keeper in the grade of Rs.3050-4590 to be held on 24.7.99 or thereafter is clearly arbitrary and contrary to the notification dt.29th August, 1998 to 4th September, 1998 (first notification) and for a consequential direction to the respondents to permit the applicants herein for the written test and also for the further process of selection of Asst.Store Keeper.

4. A direction was given on 16.7.1999 to the Standing Counsel to make their submission after getting necessary instructions from their client. The above instructions were given as it is stated that the examination is going to be held very shortly. As it will be difficult to file reply in a short time, the order dated 16.7.1999 was issued to expedite the matter.

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5. Today, learned Standing Counsel for the Respondents admits that in the first notification there was no mention that only the first Class candidates in the Matriculation will be allowed to sit for the examination except stating that the candidates should be Matriculates for consideration for the post of Asst.Store Keeper. However, a second notification was also issued for filling up further 29 posts of Asst.Store Keeper. In response to both the notifications eighteen thousand applications were received and another twelve hundred candidates were sponsored by the Employment Exchange. Thus over nineteen thousand candidates are required to be examined. As examining nineteen thousand candidates will be an herculion task, the Department thought it fit to examine only the candidates who had secured first class in Matriculation hailing from OBC and unreserved category so that it will be manageable. Accordingly a clarification was issued by the Headquarters, Eastern Naval Command in the Employment News Magazine of 19th to 25th June, 1999 restricting the entry for calling for selection of those candidates who applied in response to the first and second notification. As per this short-listing policy the unreserved and OBC candidates should secure first Class in SSC/Matriculation or equivalent examination whereas SC/ST candidates are eligible for consideration if they secure second class and above in SSC/Matriculation or equivalent. Only those who possess the above qualification will be called for selection for the post of Asst.Store Keeper.

6. The learned counsel for the Respondents also submits that short listing is permitted and it is an approved method where largenumber of candidates applied for the post in view of the Apex Court Judgement rendered in Union of India Vs. T.Sundara Ramam (1997(4) SCC 664) and also in Madhya Pradesh State Service Commission Vs. Navnit Kumar Potdar (1995(1) SLJ 135).



7. The learned counsel for the applicant contends as follows :-

(1) in the first notification it has been clearly stated that all Matriculate candidates will be considered. Hence differentiating the Matriculate candidates from OBC and unreserved between those obtained First Class is unwarranted. He also relied on the Apex Court Judgement rendered in Arun Tewari Vs. Zila Mansavi Shikshak Sangh (AIR 1998 (2) SC 331).

8. We have heard both sides. In this country ~~where~~ availability of job is minimum and the number of applications received for ^{the} ~~in~~ lower category of posts are heavy. If such huge number of candidates have to be considered for selection then it will lead to a never ending selection process. In the present case there are 19,200 applications. To examine all the 19,200 applications will be a herculian process. Under that circumstances to short list the candidates cannot be said to be an irregular practice. The Apex Court in the above referred judgement had held that short listing is permissible if the number to be examined is unmanageable. We do not find any irregularity if the Respondents restrict the qualification for calling the candidates for written test. Since it was not mentioned in the first notification in regard to the qualification to be possessed by undeserved/OBC candidates except stating that they should be Matriculates, whether the revision of qualifications can be adopted in considering their cases who applied in response to the first notification is a point for consideration. When the applications received are too many in response to the notification, we see no other alternate except to stipulate the restriction conditions in order to bring the work to a manageable level. The Respondents are not forbidden to upgrade the qualification as has been done in this case due to the number of applications received.

9. The learned counsel for the applicant further contends that if such a difference is made between the unreserved/OBC

candidates and SC/ST candidates, it will be a case of discrimination and violative of Article 14 and 16 of the Constitution. As stated earlier, the differentiation should be made in view of the number of applications received. The Apex Court had held that the short listing is not irregular. Hence we do not feel that such a differentiation is violative of Article 14 and 16 of the Constitution of India. Hence this contention is also to be rejected.

10. The applicants are unemployed youths. If they are not allowed for the written test, it amounts to depriving them the employment opportunities. We appreciate this averment. Well! in this country there are so many unemployed youths cases are also rejected and negatived. Hence no special concession can be given for the applicants herein. We strongly believe that the employer is always at liberty to prescribe/modify the necessary requirements and qualifications in order to suit to the organisation's requirement also. However, the applicant is at liberty to challenge the policy taken for fixing different standards among the Matriculates. But this being a policy matter, we cannot pass any orders in this O.A. It is upto the applicants to agitate the matter as per law.

11. It is further contended by the learned counsel for the applicant that no such stipulation (prescribing specific standards among the Matriculates) had been issued by the Department of Personnel and it is the order of local authorities. Hence they are infringing the orders of the Department of Personnel. In our view, the Department of Personnel & Training's orders are only guidelines. They are not statutory rules. Hence the Department is at liberty to suitably amend/modify the conditions considering the cases if necessity



arises. Hence we do not consider any violation of the Department of Personnel and Training orders in this case.

12. Hence the Original Application is dismissed at the admission stage itself. No costs.



(R. RANGARAJAN)
Member (A)



(D.H. NASIR)
Vice-Chairman

Dated: 21st July, 1999.
Dictated in Open Court.

*for My-
30/7/99*

avl/

COPY TO. -

1. HDHND
2. HHRP M(A)
3. HSSJP M(J)
4. D.R. (A)
5. SPARE

1st AND 11th COURT.

TYPED BY
COMPARED BY

CHECKED BY
APPROVED BY

THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH, HYDERABAD.

THE HON'BLE MR. JUSTICE D.H. NASIR
VICE - CHAIRMAN

THE HON'BLE MR. H. RAJENDRA PRASAD
MEMBER (ADMN)

THE HON'BLE MR. R. RANGARAJAN
MEMBER (ADMN)

THE HON'BLE MR. D.S. JAI PARAMESHWAR
MEMBER (JUDL)

ORDER: Date. 21-7-99

ORDER / JUDGMENT

MA. / RA. / CP. NO

IN

DA. NO. 1046/99

ADMITTED AND INTERIM DIRECTIONS
ISSUED.

ALLOWED.

C.P. CLOSED

R.A. CLOSED.

D.A. CLOSED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

ORDERED / REJECTED

NO ORDER AS TO COSTS.

केन्द्रीय प्रशासनिक न्यायालय
Central Administrative Tribunal
दिल्ली / DESPATCH

17 AUG 1999

हैदराबाद न्यायपीठ
HYDERABAD BENCH