

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

original Application No. 399/2001

Jabalpur, this the 6th day of May, 2004

Hon'ble Shri M.P.Singh, Vice Chairman
Hon'ble Shri Madan Mohan, Member (J)

1. Surendra Nath Singh
S/o Late Keshav Prasad Singh
aged about 34 years,
R/o Ram Krishna Paramhans Ward,
Mangal Nagar, Katni,
Distt. Katni. & 4 others.

...Applicants.

(By Advocate: None)

-versus-

Union of India & Others.

...Respondents

(By Advocate: Shri S.C.Sharma through Sh. Harshit Patel)

O R D E R

By Madan Mohan, Member (J):

By filing the present application, the applicants have claimed the following main reliefs:-

"(i) Summon the entire relevant records from the respondents for its kind perusal

(ii) Command the respondents to follow the judgement in UPSRTC's case and other judgement in pith and substance and letter and spirit and provide the benefit of the same to the applicant.

(iii) Accordingly direct the respondents to consider the applicants in filling up semi-skilled post by giving them preference over and above their juniors by maintaining batch-wise seniority irrespective of trade.

(iv) Consequently, if necessary set aside the impugned selection ~~xxx~~ letter Annexure A-3.

(v) Direct the respondents to provide all consequential benefits as if they were originally considered and called as per Annexure A-3."

2. Brief facts of the case are that the applicants are presently unemployed youth. They have completed their apprentice training under the Apprentice Act, 1961 from the respondent no. 3 Factory. Accordingly, certificate known as National Council for Vocational Training has been given to them. The question of appointment of apprentices of Ordnance Factory Khamaria was also came up for consideration before

this Tribunal in the case of Devjeet Chatterjee & 27 ors. vs. Union of India & ors. (OA No. 800/95). Certain persons filed review applications against the orders of the Tribunal passed in OA No. 800/95 registered as RA No. 78/96 and 79/96. These RAs were decided by common order in July, 1996. Accordingly pursuant to the said judgement the applicant/ex-apprentices who were litigants in OA No. 800/95 and OA No. 82/96 have been given appointment in Ordnance Factory Khamaria and Katni respectively. Those applicants were given appointment strictly in accordance with their batch-wise seniority of apprenticeship. The applicants came to know that respondent no. 3 is going to fill up 7 semi skilled posts in its department. Call letters are issued to certain ex-apprentices, and the department are conducting selection on 15.6.2001 at its undertaking at Katni. However, no call letters have been issued for applicants who are seniors in their batch. The applicants have preferential right over and above the other persons and their right of consideration is flowing from the judgement of UPSRTC's case, the subsequent judgement of Apex Court reported in 2000(5) SCC p. 438 and various other judgements on this issue. The respondents are bound to call and consider the applicants who are senior to other persons and who have been called in the impugned selection pursuant to the circular dated 15.20/10/99. Hence, the action of the respondents in not calling the present applicants is bad in law and is liable to be set aside, and the applicants are entitled for the relief claimed.

3. Since none is present on behalf of the applicant and the matter is an old one pertaining to the year 2001, we intend to dispose of the same by invoking the provisions of Rule 15 of the C.A.T. (Procedure) Rules, 1987. Heard the learned counsel for the respondents.

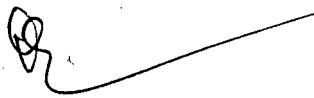
4. It is argued on behalf of the respondents that seven posts i.e. one for Electrician and six for Machinists are required by the respondent no. 3. The applicants care not from those trades. Regarding call letters, the question for junior or

senior does not arise as the ex-trade apprentices who fulfill the requisite qualification and requirement as per seniority and the reservation for SC/ST/OBC have been called as per roster of said trades. It is further argued that the applicants had not come in the zone of consideration as they did not possess the requisite qualification. The respondents have prepared trade-wise list and not batch-wise. It is also argued that the applicants have relied upon order of the Tribunal in R.A.Nos. 78/96 and 79/96 passed on 17.7.1996. They have also relied upon the order passed in RA No. 44/96 and CQ No. 25/96 passed on 24.5.1996. Both these orders passed in RAs relate to OA No. 800/95, referred to above. It is further argued that the respondents have selected ex-trade apprentices based on need based job requirement against the vacant posts of available trades. At the relevant times, the requirement was for one Electrician and six Machinists. Our attention has been drawn towards the order of the Hon'ble Supreme Court in Civil Appeal Nos. 6918-6919/1997 in the matter of Union of India & Ors. vs. Debajit Chatterjee & Ors. decided on 6.9.2001 vide which the orders of the Tribunal passed in OA No. 800/95 and OA No. 82/96 have been set aside.

5. After hearing the learned counsel for the respondents and perusal of the records, we find that the respondents have selected ex-trade apprentices based on need based job requirement against the vacant posts of available trades. At the relevant times, the requirement was for one Electrician and Six Machinists. Applicants were not qualified in these fields. All trade apprentices who were imparted training in the requisite trades were called for selection process based on seniority and points reserved for SC/ST/OBC candidates ^{the} and accordingly/suitable candidates were selected and appointed. The applicants were not suitable for the job for which the vacancies were then available because of their qualification/trade training was not in the requisite field of job. They cannot claim job merely on the ground of seniority.

without fulfilling the qualification requirement in contrary to the statutory rules and requirement of the employer. We further find that the Hon'ble Supreme Court has set aside the orders passed in OA No. 800/95 and OA No. 82/96 by the Tribunal on which the applicants have placed reliance. Hence, they do not have the right to claim the relief as prayed for in the present O.A.

6. In the facts and circumstances of the case, we find that the O.A. is bereft of merit and deserves to be dismissed which is accordingly dismissed. No costs.


(Madan Mohan)
Member (J)

/na/


(M.P. Singh)
Vice Chairman

पूछांकन सं. ओ/व्या.....नवलपुर, दि.....
पत्रिका/विवर.....

- (1) सचिव, उत्तर व्यापार विभाग, नवलपुर
- (2) उत्तर व्यापार विभाग, नवलपुर के नायंसल S. Paul
- (3) प्रत्ययी श्री/ देवी/रा. के नायंसल
- (4) कांपाल, केरल, नवलपुर व्यापारित

सूचना एवं आवश्यक बगददी देतु

S C Sharma

उप सचिव


12/5/94