

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 578 of 1999

Jabalpur, this the 5th day of September, 2003.

Hon'ble Mr. D.C. Verma, Vice Chairman(Judicial)
Hon'ble Mr. Anand Kumar Bhatt, Administrative Member

Narendra Kumar Gupta
S/o Lalji Gupta, Aged about
28 years, R/o 188, Shriram Nagar,
Guloua Chowk,
Jabalpur, District-Jabalpur

APPLICANT

(By Advocate - Shri M.R. Chandra)

VERSUS

1. Union of India,
Through Secretary,
Ministry of Telecommunication,
New Delhi.
2. Senior Resident Audit Officer,
Telecom Stores & Factory,
Jabalpur, District-Jabalpur(M.P.)
3. Chandrakant Kosta
Peon, Office of the Senior Resident
Audit Officer, Telecom Stores & Factory,
Jabalpur, District- Jabalpur(MP)
R/o near Bavli,
Garha, Jabalpur.

RESPONDENTS

(By Advocate - Shri P. Shankaran holding brief of
Shri S.C. Sharma)

O R D E R (ORAL)

By D.C. Verma, Vice Chairman(Judicial) -

The applicant has challenged the appointment of respondent no.3 Chandrakant Kosta on the post of a Group-D - Peon (OBC).

2. The case of the applicant is that his name was sponsored by the Employment Exchange for the vacancy notified by the respondents. The name of private-respondent no.3 was not forwarded by the Employment Exchange. On selection, the name of respondent no.3 came to be at serial no.1 and of the present applicant

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at serial no.2. The grievance of the applicant is that the rule does not provide for appointment of a candidate outside the list of Employment Exchange.

3. The respondents' case is that the name of respondent no.3, along with the applicant and 10 others, was forwarded by the Employment Exchange. The respondent no.3 was selected and so appointed.

4. The submission of the learned counsel of the applicant is that, as per the list Annexure-A-5 attached with the OA, the name of the applicant appears at serial no.5, whereas the name of respondent no.3 is not in the list. The learned counsel of the respondents has produced the selection file wherein the list forwarded by the Employment Exchange contained the name of respondent no.3 at serial no.10. The learned counsel of the applicant challenged the selection and the list relied upon by the respondents. In our view, however, the argument of the learned counsel for the applicant cannot be accepted on the point. The list in the selection file was received by the respondents in due course of official correspondence and its genuineness cannot be doubted unless otherwise proved.

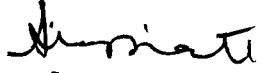
5. The submission of the learned counsel of the applicant that a person whose name has not been forwarded by the Employment Exchange cannot be given appointment has no merit in view of the decision of the Apex Court in the case of Excise Superintendent Malkapatnam, Krishna District, A.P. Vs. K.B.N. Visweshwara Rao and others, 1996 SCC(L&S) 1420 wherein the Apex Court has held that restricting the selection only to candidates sponsored by the Employment Exchange is not proper. The Apex Court has also observed that in addition to requisitioning the

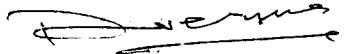
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names from employment exchange, names should also be called for by publication in newspapers having wide circulation and display on the notice board. Consequently, even if for argument sake the submission of the learned counsel of the applicant is accepted, that the name of respondent no.3 was not forwarded by the Employment Exchange, the selection of respondent no.3 cannot be held invalid because on merit he has come on the top.

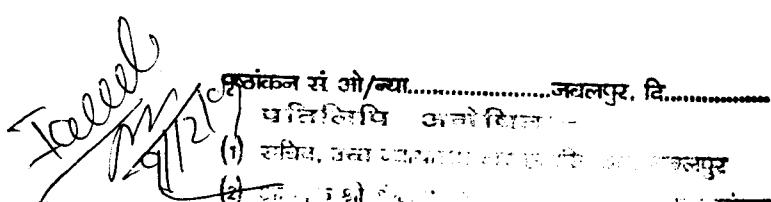
6. The learned counsel of the applicant further submitted that in the identity card Annexure-R-1 the caste of respondent no.3 belonging to OBC was mentioned on 12.10.1998. Consequently the name of respondent no.3 could not appear in the list submitted by the Employment Exchange on 9.10.1998. This submission has no merit. Making an endorsement to the identity card on 12.10.1998 would not mean that in the record of the Employment Exchange the caste certificate was ^{not} entered earlier. It is on the basis of the record that the identity card is prepared. Consequently, mentioning of the caste in the relevant register is always done earlier in time and thereafter on its basis identity cards are prepared. Therefore, this submission of the learned counsel of the applicant has also no basis.

7. In view of the discussion made above, the OA has no merit and is dismissed. Costs easy.

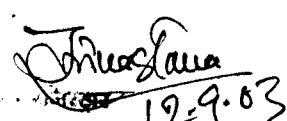

(Anand Kumar Bhatt)
Administrative Member


(D.C. Verma)
Vice Chairman(Judicial)

rkv.


मिशन सं ओ/न्या.....जलपुर, दि.....
पत्रिलिपि अनोदित
(1) रामेश, उत्तर प्रदेश विधायक बोर्ड, जलपुर
(2) रामेश, उत्तर प्रदेश विधायक बोर्ड, जलपुर
(3) रामेश, उत्तर प्रदेश विधायक बोर्ड, जलपुर
(4) रामेश, उत्तर प्रदेश विधायक बोर्ड, जलपुर
रामेश उत्तर प्रदेश विधायक बोर्ड

Mr. Chandra Sekhar
S.C. Sharma Advt.


12.9.03