

CENTRAL ADMINISTRATIVE TRIBUNAL
JABALPUR BENCH

Circuit Sitting : BILASPUR

Original Application No.81/1999

Bilaspur, this the 11th day of December, 2003

Hon'ble Shri M. P. Singh, Vice Chairman
Hon'ble Shri G. Shanthappa, Judicial Member

Pradeep Bhattacharya
s/o Shri P.C. Bhattacharya
aged about 25 years,
r/o Hemunagar, Near Shiv Mandir
Bilaspur (MP). ... Applicant
(By Advocate: Shri S. Paul)

Versus

1. Union of India through its
Secretary, Ministry of Communication
Department of Post
New Delhi.
2. Chief Post Master General
M.P.Circle
Bhopal (M.P.)
3. Post Master General
Raipur Division
Raipur (M.P.).
4. Superintendent, R.M.S.,
Raipur Division
Raipur (MP) - 492 001.
5. Awadhesh Kumar
Sorting Assistant
C/o Superintendent R.M.S.
Raipur Division
Raipur (MP). ... Respondents

(By Advocate: Shri P. Shankaran for official respondents)

O R D E R (Oral)

By G. Shanthappa, Judicial Member -

The said Original Application is filed, ~~for direction~~
~~for the respondents~~ to hold that the action of the res-
pondents in not medically examining and issuing an
appointment order to the applicant along with other
candidates is bad in law and also direct the respondents
to medically examine and appoint the applicant to the
post of Sorting Assistant from the same date the private
respondent is appointed, alongwith all consequential
benefits, seniority, arrears of wages and other benefit

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as if the applicant is serving the Department from the same date the private respondent is serving.

2. We have heard the learned advocate for the applicant on 10.12.2003. After hearing him the case was adjourned to hear the advocate for the respondents. We have also heard the advocate for the respondents today.

3. The case of the applicant is that the respondents had issued a notification to fill up the post of Sorting Assistant in the office of respondent No. 4. The names of the candidates were called from the Employment Exchange. Among the candidates the applicant is also one of them. Seven posts were notified out of which 4 posts were for O/C, 1 for SC, 1 for ST and 1 for OBC. The notification is dated 10.06.1996 and is placed at Annexure A-1. The respondents had prepared a list of selected candidates i.e. List A and List B. In list-A 4 candidates were selected and in list-B also 4 candidates have been selected and among them the applicant was in the waiting list No. 6 (in list-B he was in serial No. 2 in the waiting list). The respondents denied the selection of the applicant on the ground that he is in the waiting list. One Shri Awadhesh Kumar i.e. the private respondent No. 5 in this A, was selected and he was in serial No. 3 in the selection list. Subsequent to the selection one Shri S. Kalim Ahmed has joined the post and resigned subsequently. The case of the applicant is that since the respondent No. 5 is medically disqualified in Army Postal Service, although fit for postal service, he is not qualified in the selection process. As Shri S. Kalim Ahmed joined the post and subsequently resigned from the post and the respondent No. 5 has been medically dis-qualified, then two vacancies arise and the next person to be selected will be the applicant, from the waiting list. Accordingly, he has requested this Tribunal for direction to the respondents

to appoint him on the post of Sorting Assistant.

4. Per contra the respondents have submitted their reply stating that they have produced the list of selected candidates. The list of selected candidates as mentioned in paragraph 4.4 of the OA is similar to the selection list produced by the respondents. There is no dispute regarding the list of selected candidates. The respondents have submitted in their reply that the name of the applicant was received from the Employment Exchange, Bilaspur alongwith 35 candidates. A test of typewriting, computer and oral interview was held on 25.08.1996 and 09.10.1996 respectively, in which the applicant has appeared. The result of the selected candidates have been declared on 20.10.1996. Accordingly, 4 candidates i.e. Shri S. Kalim Ahmed, Shri Manish Chandra Das, Shri Awadhesh Kumar Sahu and Shri Mukesh Dewangan, were selected. ^{As} Shri S. Kalim Ahmed joined the post and resigned subsequently, ^{gr} to fill this post fresh notification is to be issued and no candidates from the earlier selection list or waiting list can be considered. Since Shri Awadhesh Kumar respondent No. 5 is medically qualified for postal service, ^{Postal} but not qualified for Army/^{gr} service, hence he was selected for postal service. Accordingly, now there is no vacancy to be filled by the earlier selection list.

5. After hearing the advocate for the applicant and the advocate for the respondents and after perusal of the records and the selection list of the selected candidates, the short point involved in this case is whether the applicant is entitled for the reliefs as prayed in the Original Application? As per the record we find that admittedly the applicant is at waiting list. He has no legal right to ask for the selection under the selection process. Shri S. Kalim Ahmed

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has reported for duty and resigned subsequently. The vacancy occurred due to resignation of Shri Ahmed will be notified afresh in future, as per the contention of the learned counsel for the respondents, Shri Awadhesh Kumar has been selected and was medically fit for sorting assistant in Postal Services under the respondents. Hence the selection process is in order and we are inclined to quash the selection process. We also find that all the four posts which were notified under the respondents is filled up. Hence there is no vacancy to accommodate the applicant under the said selection process. Accordingly the applicant has failed to prove his case for grant of any relief as prayed in the Q. A. is dismissed. No costs.

G. Shanappa
(G. Shanappa)
Judicial Member


(M.P. Singh)
Vice Chairman

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~~Received
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