

23.12.2005

(25)

MA 1711/2005

In

OA 3110/2003

Present: Shri Yogesh Sharma, counsel for applicants.

Shri S.Q. Kazim, counsel for respondents.

ORDER

By this MA, applicants have prayed to pass an appropriate order for implementation of the judgment dated 5.8.2004 by directing the respondents to consider the case of applicants for regularization against the posts in question. It is stated by the counsel for applicants that after the order dated 5.8.2004 was passed, the respondents sent requisition to the Zonal Employment Exchange, on 7.10.2004 for filling up four posts of both Boatman and Motor Boat Driver. Even though applicants fulfil the requirement of RRs yet they have not been considered for the same posts, therefore, appropriate orders may be passed.

2. Counsel for the respondents, on the other hand, submitted that pursuant to the requisition given by them to the Employment Exchange, only two names were sponsored against the posts of Motor Boat Driver while no name was sponsored against the posts of Boatman. Therefore, the interview could not be conducted as sufficient number of candidates were not sponsored by the Employment Exchange and the department is presently exploring the feasibility of seeking names from Central Employment Exchange and the Federation of SC & ST. He, however, assured that at the time of conducting the interview, case of petitioners shall also be considered along with other candidates, as per directions given by this Tribunal. Since no appointment has yet been made, therefore, this MA. is premature and the same may be dismissed.

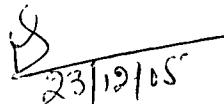
3. I have heard both the counsel and perused the pleadings as well. In the main O.A., applicants had challenged the order dated 28.10.2003 whereby respondents had observed as under:-

"...The apprehension of the representationists that the department is going to fill up vacant posts from outsiders without considering their cases is unfounded. The cases of the above mentioned representationists would be considered subject to their names being sponsored by the Employment Exchange and their fulfilling the requirements of the RR's".

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Since respondents had themselves stated that they would be considering the applicants as well but the condition imposed by the respondents was found to be not in accordance with law, therefore, this Tribunal had disposed of OA 3110/2003 by directing the respondents not to insist for the applicants' names being sponsored by the Employment Exchange again and also to grant them age relaxation to the extent of their casual employment with the respondents. It was further made clear that candidature of applicants would also be considered by the respondents along with other candidates to be sponsored by the Employment Exchange. From the above directions, it is clear that cases of applicants were to be considered by the respondents along with other candidates. If respondents felt that number of candidates sponsored by the Employment Exchange were not sufficient and they wanted to call the names from other Central Employment Exchange or Federation of SC/ST, no mala fides can be attached to their actions. In fact, counsel for the respondents assured us even now that they are bound to accept the directions given by this Tribunal and would definitely consider the candidature of applicants as well, in accordance with the directions given by this Tribunal. While no action need be taken against the respondents in these circumstances, I feel, ends of justice would be met if respondents are directed to explore the feasibility of getting more names from Central Employment Exchange and Federation of SC/ST, within six weeks from the date of receipt of copy of this order by making it clear that in case they do not get any other names of eligible candidates even from Central Employment Exchange and Federation of SC/ST, they shall consider the cases of applicants along with those candidates who have already been sponsored by the Employment Exchange or whose names are sponsored by the Central Employment Exchange or the Federation of SC/ST within six weeks, as stated above.

4. With the above directions, this MA stands disposed of.


 (Mrs. Meera Chhibber)
 Member(J)