
(2013) 02 AHC CK 0018
In the Allahabad High Court
Case No : Writ Petition No. 800 (SS) of 2013

Mulk Raj and Another

APPELLANT

Vs

Union of India and Others

RESPONDENT

Date of Decision : 14-02-2013

Acts Referred:

Citation : (2013) 1 UPLBEC 731

Hon'ble Judges : Satyendra Singh Chauhan, J

Bench : Single Bench

Advocate : Rajesh Kumar Verma, for the Appellant; Mohd. Altaf Mansoor, for the Respondent

Judgement

Satyendra Singh Chauhan, J.—Heard learned Counsel for the petitioners and learned Counsel for the Bank. The petitioners have approached this Court challenging the advertisement contained in Annexure-1 to the writ petition, by means of which, applications have been invited through Employment Exchange.

2. Learned Counsel for the Bank has submitted that opportunity was given to the petitioners to apply through Employment Exchange and it was well within the knowledge of the petitioners that advertisement has been made for appointment in the Bank and they did not approach this Court well within time. The last date for submission of application form was 24.1.2013. Some of the persons belonging to the category of the petitioners, filed Writ Petition No. 644 (SS) of 2013. The said writ petition was dismissed as withdrawn on 6.2.2013 on account of the fact that the persons, who approached this Court were not qualified to be appointed on the post in question. This is the second writ petition filed on behalf of some persons, who are alleged to be qualified.

3. Learned Counsel for the petitioners submits that very short time of ten days was given for applying for the post in question and the petitioners were not in the knowledge of the fact that an advertisement has been made. They are not eligible to apply through Employment Exchange. He has placed reliance upon the

judgment of the Apex Court in the case of Excise Superintendent Malkapatnam, Krishna District, A.P. Vs. K.B.N. Visweshwara Rao and Others, , wherein the apex Court has not appreciated the policy of inviting applications through Employment Exchange and it has been held by the apex Court that opportunity should be given to all from open market.

4. The petitioners are departmental candidates and they are working with the Bank since long. It would have been better on the part of the Bank to give opportunity to the petitioners to participate in the selection. No exception clause has been indicated in the advertisement to indicate that departmental candidates may also apply departmentally or directly to the Bank. The petitioners have been working on daily wage basis.

5. I have heard learned Counsel for the parties and perused the record.

6. The petitioners' claim is based on the judgment of the apex Court, wherein the apex Court has not appreciated the policy of inviting applications through Employment Exchange.

This Court cannot take any other view. The petitioners have been working in the department on daily wage basis since 2009-2010. The Bank should have given opportunity to the petitioners to participate in the on going selection. Since that opportunity has been denied to the petitioners, therefore, it is in violation of Article 16 of the Constitution of India. The argument of the Counsel for the Bank that it was in the knowledge of the petitioners and they ought to have applied through Employment Exchange cannot be appreciated in the light of the aforesaid judgment of the apex Court.

7. The argument of Counsel for the Bank that an additional safeguard provided for inviting applications through Employment Exchange is not a bar, has to be appreciated in the light of the finding recorded by the apex Court in the aforesaid judgment, whether the apex Court has given a free hand to the authorities to invite applications through Employment Exchange or that certain additional duty has been cast upon the Bank. Since the additional duty has been cast upon the authorities, therefore, the argument of the Counsel for the Bank fails. Accordingly, this writ petition is disposed of with the direction that the petitioners and other similarly situated persons shall also be allowed to participate in the selection, ignoring the condition of applying through Employment Exchange.