

16

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH  
NEW DELHI

O.A. NO.404/2002

This the 21st day of November, 2002.

HON'BLE SHRI JUSTICE V.S.AGGARWAL, CHAIRMAN

HON'BLE SHRI V.K.MAJOTRA, MEMBER (A)

Bharat Lal Meena S/O Girdhari Lal Meena,  
R/O RZF-222, Sadh Nagar, Part-II,  
Gali No.31-C, Palam Colony,  
Delhi.

... Applicant

( By Shri S.S.Tiwari, Advocate )

-versus-

1. Union of India through  
Secretary, Ministry of Defence,  
South Block, New Delhi.
2. Headquarters Chief Engineer,  
Chandigarh Zone,  
"N" Area, Airport Road,  
Chandigarh-160003.
3. Chief Engineer,  
Air Force (WAC),  
Palam, Delhi Cantt.-10. ... Respondents

( By Ms. Meenu Mainee, Advocate )

O R D E R (ORAL)

Hon'ble Shri Justice V.S.Aggarwal, Chairman :

Applicant, by virtue of the present application, seeks a direction to respondents to give him offer of appointment to the post of peon against the reserved category of Scheduled Tribe (ST), with consequential benefits.

2. Some of the relevant facts giving rise to the present application are that applicant had applied for the post of peon in pursuance of an advertisement of August, 2000. Applicant had been selected. It is asserted that applicant had informed respondents about

*Ms Ag*

his change of address from Karnal to Delhi. The offer of appointment is stated to have been sent on 31.12.2000 requiring applicant to report for duty on or before 31.1.2001. Applicant was to report to the office of Headquarters Chief Engineer. The said letter was sent to applicant at his previous address at Karnal and not at the Delhi address of applicant. Applicant went to enquire about his appointment and when he came to know that he had to report on or before 31.1.2001, he immediately reported for medical fitness. It is on these broad facts that the abovesaid relief is being claimed.

3. The OA, as such, has been opposed on various grounds. As per respondents, the offer of appointment had been sent at the address of applicant at Karnal and it was received back undelivered. It is denied that any intimation had been received from applicant about the change of address. Plea has also been raised that the Principal Bench at Delhi does not have the jurisdiction to entertain the present application.

4. Taking up the contention of respondents about the territorial jurisdiction of the Principal Bench at Delhi, there is no dispute that the appointment has to be made at Chandimandir. That does not fall within the territorial jurisdiction of the Principal Bench. However, sub-rule (2) to rule 6 of the Central Administrative Tribunal (Procedure) Rules, 1987 comes to the rescue of applicant. The same reads :

"(2) Notwithstanding anything contained in sub-rule (1) persons who have ceased to be in service by reason of retirement, dismissal



or termination of service may at his option file an application with the Registrar of the Bench within whose jurisdiction such person is ordinarily residing at the time of filing of the application."

Perusal of the same clearly shows that since applicant was not in service and presently he is stated to be residing within the jurisdiction of the Principal Bench of this Tribunal, therefore, the Principal Bench will have the jurisdiction to entertain the application.

5. The other contentions so raised can be taken up together. We were informed by the learned counsel for respondents that from 1.2.2001 a ban had been imposed on filling up of the posts and in any case, it has been contended that applicant is not telling the truth because the letter had been sent to the last known address of applicant which was received back undelivered.

6. For purposes of the present application, we find no reason to discredit or disbelieve applicant. It is true that in normal circumstances, a correctly addressed letter would be delivered to the addressee but the said presumption will not come into play when applicant states that he had shifted his residence to Delhi. What is being stated by applicant gets fortification from the fact that the letter purported to have been sent by respondents had been received back undelivered. Therefore, we believe applicant that he had shifted his residence. There is no reason to discredit his contention that he had intimated respondents about the change of his address.

*18 Ag*

7. There are no circumstances to conclude that applicant would indulge in foul play, because with applicant running after the job there was no occasion for him to delay the matter consciously.

8. The totality of facts makes us conclude that applicant had not received the offer of appointment in time. In that view of the matter, even the contention that there was a ban to fill up the posts after 1.2.2001, in the peculiar facts, will not stand in the way. The post had been advertised and had not been filled up by any person.

9. Keeping in view the facts and circumstances of the present application, we allow applicant's prayer and direct that he should be given offer of appointment against the reserved vacancy of ST within two months subject to other formalities to be complied with.

10. The O.A. is allowed in the aforesated terms.

V.K.Majotra

( V.K.Majotra )  
Member(A)

/as/

V.S. Aggarwal

( V. S. Aggarwal )  
Chairman