

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI.

9

O.A./TXX. No.1257 of 1995 Decided on: 28.5.96

Shri Durga PrasadApplicant(s)

(By Shri M.M. Khan with Shri H.P. Advocate)
Chakravorty, Counsel

Versus

U.O.I. & OthersRespondent(s)

(By Shri H.K. Gangwani Advocate)

CORAM:

THE HON'BLE SHRI K. MUTHUKUMAR, MEMBER (A)

THE HON'BLE SHRI

1. Whether to be referred to the Reporter or not? 75
2. Whether to be circulated to the other Benches of the Tribunal? 20


(K. MUTHUKUMAR)
MEMBER (A)

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

O.A. No. 1257 of 1995

10

New Delhi this the 28th day of May, 1996

HON'BLE MR. K. MUTHUKUMAR, MEMBER (A)

Shri Durga Prasad
S/o Shri Mohan Lal
R/o 262-B, Delhi Main Hospital Compound,
S.P. Mukerji Marg,
Delhi.

...Applicant

Shri M.M. Khan with Shri H.P. Chakravorty, Counsel
for the applicant.

Versus

1. Union of India through
the Principal Secretary,
Ministry of Railways,
Government of India,
Chairman,
Railway Board,
Rail Bhavan,
New Delhi.
2. The General Manager,
Baroda House,
Northern Railway,
Kasturba Gandhi Marg,
New Delhi.
3. The Divisional Railway Manager,
Northern Railway,
Near New Delhi Railway Station,
Estate Entry Marg,
New Delhi.

...Respondents

By Advocate Shri H.K. Gangwani

ORDER

The applicant is aggrieved by the impugned
letter dated 28.12.1994 whereby the respondents
have intimated to him about the cancellation of
the panel for selection of 300 candidates for the

11

post of Carriage and Wagon (C&W for short) (Safaiwalas) in the grade of Rs.196-232.

2. The brief facts in the case are that the applicant was one of the candidates for selection against the post of C&W (Safaiwala) in the grade of Rs.196-232 and in the said selection from 10.6.1985 to 13.8.1985 the respondents announced the results as per the panel prepared for selection which is annexed as Annexure A-4 to the application. It is the respondents' case that after the panel of 300 candidates were notified, offers for medical examination were given upto S.No.80. In the meanwhile, the panel itself was seized by the Vigilance and the matter remained under investigation for quite some time. It was decided that the unoperated portion of the select list should be scrapped and out of the offers of appointment to the first 80 in the panel those who have completed the formalities and joined duty upto 30.06.1986 were allowed to continue and those who did not join by that date, were not allowed. Six applicants filed a common application - O.A. No. 1059 of 1986 and these applicants were shown in the merits list positions ranging from 26 to 277 and have prayed in that O.A. that they should be allowed to join duty. The applicant in the present O.A. did not join in the above O.A. That O.A. was disposed of with a direction to consider the position of the applicants in the select list and if persons who are figured lower than the applicants in that list

h

are appointed, the applicants should also be considered for appointment notwithstanding the panel. That O.A. was disposed of on 10.05.1989. The matter rested there. Perhaps after the outcome of this O.A., the applicant had approached the respondents with a prayer to consider his name also for appointment as he secured 8th position in the list and several juniors have been appointed on the basis of the select list and also on the basis of the direction of the court in the aforesaid O.A.

3. In reply to this representation, the impugned letter has been issued by the respondents intimating the applicant about the cancellation of the panel. It is against this order that the applicant has approached this Tribunal under Section 21 of the Administrative Tribunals Act, 1985.

4. The respondents have contended that although the applicant was shown in the select list at S.No.8, he was offered for medical examination but he did not turn up and has approached this Tribunal after a lapse of almost 9 years and, therefore, the application is clearly time barred. It is, however, averred by the respondents that the appointments from S.No.1 to S.No.80 in descending order were made in all cases where the formalities have been completed and since the applicant did not turn up, his case was not considered. The applicant, however, contests the averment of the respondents and maintains in the rejoinder that all the requisite

formalities were completed by the petitioner and he was instructed to wait till further orders and he has also passed the medical examination. The applicant also submits in the rejoinder that all the connected papers including the medical examination records and other documents were complied in File No.940E/91-P8 and 725-E/91/4195 and other related correspondence resting with the implementation of the judgment in the O.A. No. 1059 of 1986. During the hearing, the respondents were directed to produce the record. The learned counsel for the respondents submitted at the Bar that the file No.725-E/9/4195 is only available and the same was produced in the court. It was also perused by the learned counsel for the applicant.

5. After hearing the learned counsel for the parties and after perusing the record, I find that there is no clear averment by the applicant as to when he appeared for the medical examination. Besides, if he had appeared for the medical examination in time and was also declared fit, as averred by him, he has not produced before me any evidence regarding date of examination or the result of the examination. In any case, it is an admitted position that the respondents have in fact offered appointments to first 80 people subject to the other formalities etc. It is also seen that in respect of such of those people within first 80 in the panel who have completed other formalities were given the appointment,

14
.5.

although it was decided to scrap the rest of the panel. In the record produced before me it has been mentioned at page 19 of the file that out of 80 people who were offered appointment only 47 joined. The applicant has not shown any reason or ground as to the delay in regard to representing the matter before the respondents or approaching this Tribunal well in time. The application is, therefore, time barred and is liable for dismissal on this ground alone. Even on merits, the applicant has not shown as to how he had been discriminated particularly when there is no information about the medical examination and particularly also when it is an admitted position that 47 out of 80 people who were offered and who completed formalities have joined the post. The applicant has slept over the matter for almost 9 years and has filed this application only in 1995 and in such circumstances, the Tribunal cannot go to his rescue. There is no allegation of mala fide or arbitrariness.

6. In the light of the foregoing, there is no merit in the application. It is accordingly dismissed. No costs.


(K. MUTHUKUMAR)
MEMBER (A)

RKS