

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

OA No.1547/94

New Delhi this the 14th Day of July, 1995.

Hon'ble Sh. N.V. Krishnan, Vice-Chairman (A)
Hon'ble Dr. A. Vedavalli, Member (J)

Smt. Phoola Devi
wife of Shri Moti Lal,
R/o Delhi, C/o Sh. Sant Lal Advocate,
C-21(B) New Multan Nagar,
Delhi-110056.

...Applicant

(By Advocate Sh. Sant Lal)

1. The Union of India, through the
Secretary, Ministry of Communications,
Department of Posts, Dak Bhawan,
New Delhi-110001.
2. The Director Postal Services,
Delhi Circle, Meghdoot Bhawan,
New Delhi-110001.
3. The Senior Superintendent of
Post Offices, New Delhi Central Division,
Meghdoot Bhawan,
New Delhi-110001.

...Respondents

(By Advocate Sh. M.K. Gupta)

ORDER (Oral)
(Hon'ble Mr. N.V. Krishnan)

This is a strange case where the respondents insist, on the basis of evidence with them, that the applicant has passed the primary standard, though she denies this and states that she is an illiterate person. The other strange thing is, as it would appear shortly, this would have no relevance to consider the claims of the applicant in this OA.

2. Admittedly, the applicant was working in the Postal Department in the Krishi Bhawan Post Office as a part time Waterwoman. It is stated by the respondents that she had appeared in the tests conducted for her regularisation. She appeared on five occasions. The applicant herself admits appearing in the test on

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24.2.91. According to the respondents candidates should have passed the primary standard to be eligible to appear in the test. It is also stated that the applicant did produce a certificate which is at Annexure R-1. That certificate shows that the name of the scholar is Phoola Devi and her date of birth is 31.1.57 and that she has passed the 6th standard. The respondents also state that the applicant made an application to give back the certificate which was returned to her on 29.10.91 (Annexure R-1). They state that that she was later on declared successful in the test held on 8.3.92 as Group 'D' non-test category (Annexure A-3). That shows that as a result of the interview, the applicant, a part time casual labour has been declared successful subject to the production of the original certificate regarding her age.

3. It is here that the difficulty arose. The applicant was asked to produce the original of the education certificate which she had allegedly produced earlier and taken back. She submitted that she was an illiterate and she produced an affidavit sworn before an Oath Commissioner on 13.4.92 to this effect, in which her date of birth is shown as 31.1.57, which is the same as the particular given in the Annexure R-1 education certificate. The learned counsel for the respondents also submits that this date is also the same as mentioned in an affidavit given on 1.2.79 when she was first entertained by the Department as casual labourer. Therefore, the dispute at present is only about the proof of her age. The respondents require the production of an

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education certificate, which according to them exists, while the applicant denies existence of such a certificate.

4. Admittedly, there is no dispute that the applicant has always been claiming that her date of birth is 31.1.57, which is what has been recorded in the copy of the affidavit now held by the respondents in their possession. Further as the appointment is to a non-test category post, there is no need for educational qualification and proof thereof is not needed.

5. We are of the view that the claim of the applicant for appointment should not have been rejected on this ground viz. that she failed to produce the education certificate, when she claims that it does not exist. We feel that if such a certificate existed, there is no reason why the applicant would deny its existence. In any case, the Department has already retained the affidavit of 1979 giving the proof of age and the date of birth and that date of birth has remained unchanged.

6. In this view of the matter, we are of the view that the Department should not insist on producing the proof of age only by producing that certificate. We, therefore, dispose of this OA by declaring that the date of birth of the applicant, as established by the documents on record, is 31.1.57 and this should be accepted by the Department for the purpose of the Annexure A-3 order. We further declare that the applicant should be treated as an illiterate person by the Department in so far as further service prospects are concerned. We now direct

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the respondents to engage the applicant in terms of the Annexure A-3 order in the light of the above declaration within two months from the date of receipt of this order. In so far as the applicant's seniority is concerned, it is open to her to make an application to the respondents for determination of the same, keeping in view the special circumstances of the case.

7. The O.A. is disposed of, as above. No costs.

Akshaya

(Dr. A. Vedavalli)
Member(J)

'Sanju'

N.V. Krishnan
14.7.85

(N.V. Krishnan)
Vice-Chairman(A)