

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

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DA.2750/91

Date of Decision:06.11.1992

Smt. Kapoori Devi

Applicant

Versus

Union of India through
Secretary, Ministry of
Communications, Department
of Posts and others

Respondents

For the applicant

Shri Sant Lal, counsel.

For the respondents

Shri M.L. Verma, counsel.

CORAM:

THE HON'BLE VICE CHAIRMAN SHRI P.K. KARTHA

THE HON'BLE MEMBER SHRI B.N. DHOUNDIYAL

1. Whether Reporters of local papers may be allowed to see the Judgement? *Yes*
2. To be referred to the Reporter, or not? *Yes*

JUDGEMENT

(of the Bench delivered by
Hon'ble Member Shri B.N. DHOUNDIYAL)

This OA has been filed by Smt. Kapoori Devi, against the impugned order dated 15.1.91, issued by the Chief Post Master, New Delhi cancelling her candidature for examination for recruitment to Class-IV post on the ground that the certificate of educational qualification submitted by her was issued by an unrecognised institution.

2. According to the applicant, she was engaged as casual labourer in the New Delhi sorting division on 25.11.82, where she worked upto 24.9.85 when she was transferred to New Delhi Head Post Office. She had submitted a certificate from the Vice President of Gram Sabha Khara Kela, Delhi, showing her date of birth as 25.5.59. Two affidavits were submitted by her in September 1982 and December 1984 indicating the same date of birth and her educational qualification as of Vth Standard.

Later she submitted a certificate dated 26.12.88 from the Secretary, Board of Adult Education and Training, New Delhi showing her date of birth as 25.5.59 and her educational qualification as Middle pass. The applicant appeared in the departmental test for regular appointment in Group 'D' cadre held on 23.7.89 but her result has been withheld. The result sheet dated 24.7.89 contained the following remarks:-

"The result of Shri Raj Pal Roll NO.ND-11 and Smt. Kapoori Devi Roll NO.6 will be declared lateron"

The respondent No.3 vide his letter NO.82/15/89-90 dated 15.1.1991 rejected the request of the applicant for declaring the result and intimated the cancellation of her candidature for the said examination(Annexure A-I)

3. The respondents have admitted that the applicant was engaged as casual labourer on 25.11.82 and has been working in the New Delhi Head Post Office since 25.9.85. A literacy test for recruitment of Group 'D' officials was held on 11.1.87 in which she was not allowed to appear for want of valid proof of her date of birth. She was, however, provisionally permitted to take the said test held on 23.7.89. The respondents have also mentioned that the various affidavits and the certificate from the Board of Adult Education submitted by the applicant were examined but on enquiry, it was found that the said Board of Adult Education was not recognised by the Department of Education, Government of India. In her various certificates, she had shown her date of birth as 23.5.59, though in the family pension documents, the date of birth shown in her own hand writing reads as 15.1.1948. The date of birth of her son was given as 22.1.68, which would mean that there was a difference

of less than nine years in between the ages of the son and the mother. As the correct age of the applicant was not established, her candidature was cancelled on 15.1.91.

4. We have heard the arguments addressed at the Bar and perused the pleadings put forth by the learned counsel for both parties and the documents placed on record. The learned counsel for the applicant contended that the recruitment Rules, 1970 for appointment of Group 'D' staff in the Postal Units do not prescribe any educational qualification from recognised institution to become eligible for such appointment. The competent authority has accepted the date of birth certificate mentioning 25.5.59 submitted by her before appointment as casual labourer vide memo dated 16.11.1982. It is not fair and just on the part of the respondents to raise doubts about the date of birth after the applicant has served for about 9½ years. The applicant had already acquired temporary status under the provisions of the orders contained in the Ministry of Communication, dated 12.4.91 and any denial of service privilege of appearing in the examination without an opportunity been given to her to produce the necessary proof is unjust. The learned counsel for the applicant has also explained that the applicant had a step son, who was only 9 years younger to her.

5. It has been held by the Supreme Court in Jacob M. Puthuporambil Versus Kerala Water Authority* that in such cases the educational qualifications to be taken into account should be as prescribed on the date of employment and not those prescribed when regularisation is being considered. Thus if the recruitment Rule applicable at the time of initial recruitment of the applicant did not prescribe Middle examination

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* AIR 1990 SC 2228 at 2238

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as the qualification, the respondents should not insist on it. It is not the case of the respondents that the applicant has forged the educational certificate but that the institution granting the certificate is not recognised.

6. In the conspectus of the facts and circumstances of the case, the applicant is entitled to succeed and we hereby set aside and quash the impugned order dated 15.1.91 and direct the respondents to declare the results of the literacy test carried out by them on 11.1.87. In case the applicant has qualified, she would be entitled to be regularised from the date her immediate junior, who qualified in the examination was regularised. Orders in this regard shall be issued, expeditiously and preferably within a period of three months from the date of receipt of this order.

7. There will be no order as to costs.

B.N. Dhoundiyal
(B.N. DHOUNDIYAL) 6/11/92
MEMBER(A)

P.K. Kartha
6/11/92
(P.K. KARTHA)
VICE CHAIRMAN(J)

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