

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

(9)

O.A. NO. 995/1991

DATE OF DECISION : 26.8.1991

LAKHANLAL GUPTA

... APPLICANT

VS.

UNION OF INDIA ETC.

... RESPONDENTS

SHRI M. L. VERMA, COUNSEL FOR RESPONDENTS

CORAM : HON'BLE MR. JUSTICE RAM PAL SINGH, V.C. (J)

HON'BLE MR. P. C. JAIN, MEMBER (A)

.....

JUDGMENT

Hon'ble Shri P. C. Jain, Member (A) :

By this application under section 19 of the Administrative Tribunals Act, 1985 (hereinafter referred to as 'the Act') the applicant, who was posted as Pharmacist at Health Centre, Central Railway, Dholpur Railway Station, has sought the quashing of letter dated 12.4.1991 (Annexure A-1) by which the result of the written test held on 11.3.1991 and 5.4.1991 for promotion of Pharmacist Grade-III to Pharmacist Grade-II was declared. He has also prayed for quashing the selection proceedings initiated under letter dated 4.2.1991 (Annexure A-6) and also for a direction to the respondents to re-hold the selection by an impartial authority/selection committee. He also seeks a direction to the respondent No.1 (Union of India through Secretary, Ministry of Railways) to amend or modify rules for selection procedure, and for restraining the respondents from reverting him otherwise than in accordance with law/disciplinary proceedings. The applicant also filed MP-1879/91 on 9.7.1991 praying for

staying the operation of order dated 20.6.1991 (Annexure MP-1) in respect of his reversion and for allowing him to continue as Pharmacist Grade-II.

2. On notice to the respondents on admission and interim relief, official respondents as well as respondent No.9 have filed their replies opposing the application. A preliminary objection has also been taken by the official respondents to the effect that the application is premature and cannot be admitted in accordance with the provisions of section 20 of the Act.

3. We have carefully perused the material on record and have also heard the learned counsel for the official respondents on admission and interim relief. None was present for the applicant and for respondent No. 9.

4. Briefly stated, the facts are that the applicant was appointed as Pharmacist Substitute on an ad-hoc basis in Grade-III on 9.10.1979. He was regularised w.e.f. 7.9.1981 after he was selected for the post by the Railway Recruitment Board. He was promoted on ad-hoc basis on 7.11.1986. Vide letter dated 4.2.1991 (Annexure A-6) six candidates including the applicant were informed that a written examination will be held on 11.3.1991 for selection for two posts of Pharmacist in Grade-II. The applicant appeared in the written test but he is said to have failed and as such, his name was not included in the list of four successful candidates, which was declared on 12.4.1991 vide Annexure A-1. He made a representation on 19.4.1991 which is stated to be still pending. He filed this O.A. on 24.4.1991. The amended OA was filed on 6.5.1991.

5. Learned counsel for the official respondents pressed before us that the applicant has not waited for the disposal of his representation or in the absence of disposal for a period of six months from the date of the order by which he is aggrieved and as such, the OA is premature and cannot be admitted. He also stated that the results of the selection after viva voce test have already been declared on the basis of which orders have also been issued on 20.6.1991 inter alia reverting the applicant to his substantive post of Pharmacist Grade-III and simultaneously transferring him from Dholpur to Jhansi. A copy of these orders is on record as Annexure MP-1. He also stated that in pursuance of the above orders the applicant has already joined at Jhansi.

6. We have carefully considered the preliminary objection raised by the official respondents, and in the light of the facts aforesaid, we are of the view that the applicant has rushed to the Tribunal without availing of the departmental remedies. He should have waited for the disposal of his representation, or for a period of six months, whichever is earlier, before filing this O.A. In support of this, a seven-judge judgment of the Supreme Court in S. S. Rathore vs. State of Madhya Pradesh : AIR 1990 SC 10, and a Full Bench judgment in the case of B. Parmeswara Rao are referred to.

7. In the light of the foregoing discussion, we hold that the O.A. is premature and is accordingly dismissed as such. Needless to say that the applicant will be free to approach this Tribunal by means of a fresh O.A. in accordance with law, if so advised, if he is still aggrieved on the disposal of his representation or due to its non-disposal within a period of six months of the date of making his representation. We leave the parties to bear their own costs.

Recd 24/8/91
(P. C. JAIN)
MEMBER (A)

Recd 24/8/91
(RAM PAL SINGH)
VICE CHAIRMAN (J)