

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH
ALLAHABAD.

Dated: Allahabad, the 13th day of August, 2001.

Coram: Hon'ble Mr. S. Dayal, A.M.

Hon'ble Mr. S.K.I. Naqvi, J.M.

ORIGINAL APPLICATION No.390 OF 2001

Anil Kumar Dixit,
s/o V.D. Dixit,
r/o 18, Ghandhi Nagar,
Gali No.3, Firozabad.

. . . . Applicant

(By Advocate: Sri V.K. Goel)

Versus

1. Union of India through the Secretary,
Ministry of Communication, New Delhi.
2. Superintendent of Post Office, Mainpuri.
3. Chief Post Master General, U.P.
Lucknow.

. . . . Respondents

(By Advocate: Sri V.V. Misra)

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(By Hon'ble Mr. S.K.I. Naqvi, JM)

The brief facts of the case giving rise to this O.A. are that the Superintendent of Post Offices, Mainpuri, sent requisition to Firozabad Employment Exchange and Mainpuri Employment Exchange for forwarding names of eligible candidates for selection and appointment on the post of Postal

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Assistants, for which examination was to be conducted in the year 1995. In response to this requisition, the Mainpuri Employment Exchange recommended the names of eligible candidates, but Firozabad Employment Exchange did not respond and, therefore, the said examination had to be cancelled and fresh names were invited for holding fresh selection in the year 1996. On the second requisition, the name of the applicant was withheld by Firozabad Employment Exchange on the ground of his having become overage, although in response to the first requisition his name was sponsored. Being aggrieved of this position, the applicant preferred O.A. No.608 of 1996 before this Tribunal, wherein interim relief was granted on 4.6.96, directing the Respondents to allow the applicant in the selection provisionally, with further direction that the result of the applicant shall not be declared. This O.A. has been finally decided, vide order dated 9.12.98, through which the interim order was confirmed and it was further directed to declare the result of the applicant and also to consider grant of relaxation from maximum age limit as a special case. The respondents sat over the judgment without any action, which necessitated the move on contempt side, and immediately after the presentation of contempt petition, the respondents came into action and declared the result of the applicant and approved for appointment to the post of Postal Assistant, vide order dated 7.1.2000. This order also incorporates the decision to grant relaxation of one day in the maximum age limit of the applicant.

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After having succeeded to this stage, the applicant was sent for training, which he successfully completed and there remained the simple formality of issuing appointment and posting letter. Being deprived of this position for sufficient long time, the applicant preferred representations and now has come up seeking relief to the effect that the Respondents be directed to appoint on the post of Postal Assistant and pay salary for the same with effect from the date the educational qualification, character and antecedents were verified, in pursuance of the order dated 7.1.2000 passed by the Respondent No.2 and, in the alternative, with effect from 2.10.2000 and also for a direction to the respondents to pay arrears of salary with effect from 2.10.2000.

2. The respondents have contested the case and filed their counter reply. A perusal of the counter reply goes to indicate that there is no much dispute of factual side. In Paras 7 & 8 of the CA, it has been mentioned that the government has imposed a ban on fresh appointment and as soon as ban on filling up vacancies is withdrawn, the applicant would be given appointment and paid his salary. It will not be ^{out of place} ~~improper~~ to mention here that the respondents have skipped over the pleading in para 4.15 of the CA, wherein the applicant has mentioned the names of 8 candidates, who were appointed, as per appointment letter dated 29.9.2000, a copy of which

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has been annexed as Annexure No.6 to the OA and this paragraph has been covered in para-7 of the C.A. but without touching its pleading.

3. Heard at length Sri V.K. Goel for the applicant and also Sri V.V. Misra for the Respondents.

4. It is not in dispute that for the appointment of the applicant to the post of Postal Assistant, there remained only a formality to issue letter of appointment after he has successfully completed the training for that purpose, but it could not be done because of ban imposed on fresh appointment, as mentioned from the side of the respondents. A perusal of the record clearly indicates that ban is not absolute and even after the issue of this letter dated 18.7.2000, a copy of which has been annexed as Annexure No. CA-1 to the CA, the respondents issued appointment letter, as per Annexure No.6 to the OA, which is dated 29.9.2000 and there is also enabling clause in this letter dated 18.7.2000, which provides that fresh appointments are possible after having obtained approval from the Ministry of Finance, and in view of the clear direction by the Tribunal in the earlier filed OA, the respondents ought to have ~~been~~ taken action in this regard and have not tried to find an escape under this circular (CA-1) and *therefore* O.A. is decided with directions *under*.

5. The competent authority in the respondents establishment to take concurrence of Ministry of Finance

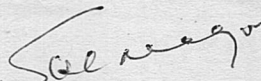
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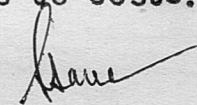
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for appointment of the applicant with effect from 2.10.2000 and the applicant be notionally appointed with effect from 2.10.2000. The formality in this regard be completed within eight weeks from the date a copy of this order is received. A copy of this order be provided to Sri V. V. Misra, Advocate, who will inform authorities accordingly.

There shall be no order as to costs.


(S. K. I. NAQVI)
MEMBER (J)


(S. DAYAL)
MEMBER (A)

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