

**CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH
Original Application No.381/2021.**

Dated this the 27th day of September, 2021.

CORAM:

Hon'ble Sh. Jayesh V. Bhairavia, Member (J)

Hon'ble Dr. A.K. Dubey, Member (A)

1. Vikash Kumar,
Son of Ajay Kumar Singh,
Aged: 33 years,
Working as Sorting Assistant,
Res. 102 First Floor, Avenue Apartment,
Behind Shradha Society, Sumul Dairy Road,
Alkapuri, Katargan, Surat – 395 004.

...Applicant

(By Advocate Mr. Joy Mathew)

Vs

1. Union of India,
Notice to be served through
The Secretary,
Ministry of Communications and Information Technology,
Department of Posts,
(Recruitment Division), Dak Bhavan,
Sansad Marg, New Delhi – 110 001.
2. Directorate General of Posts,
Dak Bhavan, Sansad Marg, New Delhi – 110 001.
3. The Chief Postmaster General,
Gujarat Circle, Kanpur, Ahmedabad – 380 001.
4. Postmaster General,
Vadodara Region, Pratpgunj, Vadodara – 390 002.
5. Superintendent,
O/o. Superintendent of Railway Mail Service,
'W' Division, Pratapgunj, Vadodara – 390 002.
6. Shri BA Makwana,
Inquiry Officer and ASPOs,
Vadodara RMS/3B, Vadodara – 390 002.

...Respondents

ORAL(ORDER)

PER: Hon'ble Shri Jayesh V Bhairavia, Member (J)

1. In the instant OA, It is the grievance of the applicant that though the inquiry officer permitted to supply relevant demanded documents by the applicant herein with respect to the allegation levelled against him of impersonation i.e., indulging in improper ways and means to secure appointment in government department under the charge memorandum dated 10.02.2020 (Annexure A/1) the said permitted documents have not been supplied by the DA and he has been informed that same is not available with the recruiting authority that too without supplying of "non availability certificate" by the DA, the IO intend to continue with the departmental inquiry. Hence, this OA.
2. Learned Counsel Mr. Joy Mathew for the applicant submits that to prove his innocence and to meet with allegation of impersonation, the applicant herein vide his request letter dated 27.04.2021 (Annexure A/17) had demanded certain relevant additional documents from IO. Considering the relevancy of the said demanded documents the IO vide his letter dated 27.07.2021 permitted to supply the same to the applicant. However, vide letter dated 28.05.2021 the Superintendent RMS "W" Division, Vadodara conveyed the decision of disciplinary authority to the IO that the said demanded documents are not available with the recruiting authority i.e., (Circle Office, Ahmedabad) hence, not supplied. Further, it is submitted that the disciplinary authority neither supplied the permitted documents nor provided the "non availability certificate". The DA has not followed the statutory requirement as stipulated in Rule 14 (13) of CCS(CCA) Rules 1965. At the same time, the IO continues with the

departmental inquiry. Therefore, it is the grievance of the applicant that without following the provision of rules as referred herein above, further continuation of departmental inquiry is in violation of principal of natural justice as also same will cause serious prejudice to the defense of applicant. The applicant has been deprived of fair opportunity to submit his defense.

3. The counsel for the applicant also submits that he does not press his grievance about non-consideration of his representation which was filed on receipt of the charge memorandum before the DA and had not supplied the copy of decision of rejecting the same and deciding to conduct departmental inquiry by appointing IO and PO. He maintains his grievance only with regard to non supply of permitted relevant document or “non availability certificate”. Learned Counsel also placed reliance on the order passed by this Tribunal order passed in OA No.333/2021 decided on 25.08.2021 in the case of Shri Shyama Sundar Kumar Vs UOI & Ors. (Annexure A/23) wherein also the IO had permitted the supply of relevant documents but same was not given to the CO therein. Considering the said matrix, this Tribunal directed the DA and the IO to supply the permitted documents and by following the principal of natural justice further inquiry be held.
4. In the present case, as noticed herein above undisputedly, the IO had accepted the request of CO with regard to his demand to supply for relevant additional documents. However, the same has not been supplied to him on the ground that it is not available with the recruiting authority. Furthermore, the DA had not issued “non availability certificate” in terms of Rule 14 (13) of CCS (CCA) Rules 1965.

5. In view of aforesaid factual matrix and in light of CCS (CCA) Rules as referred herein above, we deem it fit to dispose of this OA at admission stage by directing the respondent i.e., the disciplinary authority or the authority having the custody or possession of requisitioned documents be supply to the CO and if for any reason the DA is not able to supply the said permitted documents in that case by following the provision of Rule 14 (13) of CCS (CCA) Rules and issue the “non availability certificate” expeditiously and continue with departmental inquiry thereafter. In other words, respondents are directed to follow the principal of natural justice in conducting the departmental inquiry against the applicant and conclude the said inquiry as per the rules.

With the above direction, the OA stands disposed of. No order is to cost.

Direct service permitted to respondent no. 5 and 6.

(A K Dubey)

Member(A)

(Jayesh V Bhairavia)

Member(J)

PA