

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
ALLAHABAD BENCH, ALLAHABAD.

....

ORIGINAL APPLICATION NO. 309 of 1993.

this the 20th Day of March 2001.

HON'BLE MR. RAFIQ UDDIN, MEMBER (J)
HON'BLE MAJ. GEN. K.K. SRIVASTAVA, MEMBER (A)

Pramod Kumar Sharma, aged about 33 years, S/o Sri Harish Chandra Gaur, resident of Village Fatehgarhi, P.O. Kalena, District Bulandshahar, Ex-postal Asstt., Head Post Office, Khurja.

... Applicant.

By Advocate : Sri B.P. Srivastava.

Versus.

Union of India through the Secretary Ministry of Post and Telegraph, New Delhi.

2. post Master General, Agra.
3. Supdt. of post Offices, Bulandshahar.
4. post Master Head Post Office, Khurja.

... Respondents.

By Advocate : Km. S. Srivastava.

ORDER (ORAL)

RAFIQ UDDIN, MEMBER (J)

It appears that in the year 1982, an advertisement was published in the daily News Paper for filling-up the post of Reserved postal Asstts. The applicant was also applied for the said post and was selected on the basis of the marks obtained in the High School Examination. Accordingly, the appointment order was issued to the applicant by the Supdt. of post offices, Bulandshahar (respondent no.3) on 2.7.83. The applicant claims that after his selection, he was required to deposit the original certificates of High School and Intermediate Examination and Marksheets. Accordingly, he submitted

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the original certificates & Marksheeta of High School and Intermediate examination alongwith the provisional marksheet of B.A., which he had passed from Meerut University, on 11.7.1983. After the applicant having been medically fit, ^{found} the applicant was ordered to send for training to Meerut Local Training Class w.e.f. 15.9.1983 to 29.11.1983 vide order dated 6.9.1983. The applicant completed the aforesaid training on 29.11.1983. The applicant was also ordered to be sent for practical training vide order dated 22.11.1983. After completing the practical training, the applicant was posted as Postal Assistant on 12.12.1983 (Annexure-6 to the O.A.). In the meantime, the applicant was also transferred from Bulandshahar to Khurja, Head Post Office, where he was discharging his duties as Postal Asstt.

2. The applicant claims that he had received the letter dated 8.6.1984 in which he was asked to submit the original High School marksheet. The applicant, however, could not deposit the aforesaid document because he had no copy of High School Marksheet. The applicant was, however, vide order dated 6.8.1984 communicated by the post Master, Khurja that on the basis of the order dated 4.8.84 passed by the Supdt. of Post Offices, Bulandshahar, the applicant is being relieved of his duties, a copy of which has been annexed as Annexure no. 1 to the O.A. The applicant claims that he was never served with the letter dated 4.8.84 issued by the Supdt of Post Offices, Bulandshahar. The applicant, thereafter, submitted an application ^{dt.} 8.8.84 in which he had requested for reinstatement as well as the payment of salary w.e.f. 1.7.84, a copy of which has been annexed as Annexure no. 13 to the O.A. The applicant did not receive any reply from the respondents, hence he sent a legal notice under section 80 C.P.C. on 1.9.1984, but no reply was given to the said notice. It is further stated that the respondent no.3 namely Supdt. of post Office, Bulandshahar, lodged an F.I.R. against the

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applicant on 7.12.1984 (Annexure-14 to the O.A.). On the basis of the aforesaid F.I.R., a criminal case no. 2695/91 under section 420/467/468 of IPC was lodged. The Vth Additional Judicial Magistrate, Bulandshahar ^R~~was~~, however, acquitted ~~to~~ the applicant on 10.4.1982 (Annexure-15 to the O.A.). It is claimed that the revision petition. It is claimed that the Government filed a revision petition bearing no. 301 of 1992 in the Court of VII Additional District Judge, Bulandshahar against the order of the acquittal of the accused, but the revision petition was also rejected by the Court by ~~the~~ order dated 19.10.1992, a copy of which has been filed as Annexure no. 16 to the O.A. After his acquittal, the applicant has submitted an application on 12.11.1992 before the respondent no.3 requesting him that the applicant should be reinstated on the post of Postal Asstt. alongwith the copy of the judgment. Since no order for reinstatement of the applicant was passed, he gave a reminder on 30.12.1992 (Annexure-19 to the O.A.). The applicant was also duly informed by the respondent no.3 vide his letter dated 8.1.1993 that the file of the applicant was sent to the PMG, Agra. Thereafter, the applicant made a representation to the PMG, Agra on 14.1.1993 regarding his reinstatement, but no reply has been received by him. Therefore, the applicant again made another representation to the respondent no.3 on 27.1.1993. The applicant was informed vide his letter dated 17.2.1993 that his representation has been rejected by the PMG, Agra, a copy of which has been annexed as Annexure no. 23 to the O.A. Hence, the applicant has filed this O.A. with the prayer that the order dated 4.8.1984 passed by the respondent no.3 be declared as null and void and the directions be issued to the respondents to pay him the salary and allowances w.e.f. 6.8.1984 till he is reinstated. The applicant also claims that his salary w.e.f. 1.7.84 to 5.8.84 should also be paid to him alongwith interest on the aforesaid amount. ^{Ry}

3. The respondents in their Counter reply have stated that the selection of the candidates for the post, in question, was made on the basis of the merit in the High School examination and 10 additional marks were admissible to the candidates, who possessed the Graduate degree. The applicant mentioned in the prescribed application that he had secured 66% marks in the High School examination, 46% in the Intermediate examination and 47% in the B.A. examination. The applicant also submitted the photostat copy of the High School Marksheet in support of his having secured 330 marks (66%) out of 500 marks. The marksheet was issued by the J.A.S. Inter College, Khurja in the year 1975. It is stated that in the aforesaid selection the candidate selected on top had secured 82.8% and the candidate at the bottom had secured 74% in respect of other caste community candidates. Since the applicant had secured 330 marks out of 500 in the High School examination as per the information furnished by him in his application that he was a Graduate from the Meerut University, his merit was determined having secured 66% marks in the High School examination, plus 10 bonus marks admissible to a Graduate candidate. Thus, he secured 76% marks and was placed in the select list.

4. The respondents' further case is that the marksheet of the applicant was sent to U.P. Board, Allahabad for verification vide letter ~~dated~~ dated 22.7.1983, but no reply was received. Hence, the applicant alongwith other selected candidates ^{was} ~~were~~ imparted training and after completing his training, he was engaged on daily wage basis @ Rs. 2.75ps. per hour to meet the acute shortage w.e.f. 15.12.1983. The applicant also submitted another photostat copy of his High School marksheet, which was also sent to U.P. Board Allahabad for verification on 29.3.1984. The marksheet which was submitted by the applicant later on, the marks obtained by the applicant is shown as 230 marks out of 500.

in the High School Examination. The U.P. Board, Allahabad confirmed the marks obtained by the applicant as shown in the marksheet which he submitted later on, in which 230 marks out of 500 were mentioned. Thus, the applicant obtained the appointment on the basis of the forged and fabricated documents namely the photostat of the marksheet of the High School examination alongwith his application for appointment. Since the appointment of the applicant was made on the basis of marks obtained in the High School as 66% (330/500) and 10 additional marks were given as Bonus being a Graduate candidate, he was asked to produce the original High School certificate and Marksheet and a-ttested copies to which he submitted original High School certificate and attested copy of Marksheet. In the copy of Marksheet of High School, the marks obtained by the applicant was shown as 230 out of 500 and percentage of marks obtained as 46% only. The applicant was, therefore, relieved on the post of Reserved Postal Asstt. vide order dated 4.8.1984 and the matter was reported to police.

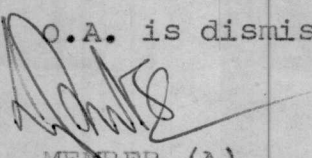
6. We have heard the learned counsel for the parties and have perused the pleadings on record.

7. It has been vehemently contended by the learned counsel for the respondents that since the order of termination of the applicant was passed on 4.8.1984 and he has filed the present O.A. in the year 1993, the same is not maintainable being grossly barred by time. On this point, the learned counsel ^{for} the applicant has argued that since the criminal case instituted against him was decided on 10.4.1992 and the revision petition filed by the Government was decided on 19.10.92. We are, however, not in agreement ^{with} ~~to~~ the learned counsel for the applicant on this point because the criminal proceedings on the basis of the certain set of facts can be instituted alongwith the departmental proceedings. There is no legal bar for parallel proceedings. Therefore, there was no reason

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for the applicant to wait ^{for the} ~~to~~ out-come of the criminal case pending against him for filing the present O.A. It is pertinent to mention that the applicant had also sent a legal notice under section 80 of CPC to the respondents on 1.9.84, but no other suit or any other proceedings were initiated against the respondents on the basis of such legal notice. In our considered opinion, the cause of action arose to the applicant, when he received the communication dated 6.8.84 intimating him that on the basis of the order dated 4.8.84 passed by the respondent no.3, he was being relieved.

8. For the reasons stated above, we find that the present O.A. is not maintainable being time barred. The O.A. is dismissed. No order as to costs.


MEMBER (A)
GIRISH/-


MEMBER (J)