

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH : ALLAHABAD

ORIGINAL APPLICATION NO.200 OF 2002  
ALLAHABAD THIS THE 16TH DAY OF JULY, 2003

HON'BLE MAJ GEN K.K. SRIVASTAVA, MEMBER-A  
HON'BLE MR. A. K. BHATNAGAR, MEMBER-J

Idris Ahmad,  
S/o Sri Abdul Majid,  
R/o S-8/29 Ordaly Bazar,  
Varanasi Cantt.

.....Applicant

(By Advocate Sri Mohan Yadav)

Versus

1. Union of India,  
through General Manager,  
D.L.W., Varanasi.

2. General Secretary,  
D.L.W., S.A.,  
Varanasi.

.....Respondents

(By Advocate Shri Anil Kumar)

O R D E R

HON'BLE MAJ GEN K.K. SRIVASTAVA, MEMBER-A

By this O.A. filed under section 19 of Administrative Tribunals Act 1985, the applicant has challenged the order dated 02.07.2001 (Annexure-1) by which the representation of the applicant has been decided in compliance of the order dated 15.03.2001 passed in O.A. No.1708/92.

2. The facts, in short, as per applicant are that he was appointed as Khalasi on 07.08.1988 against the Sports quota in D.L.W. Varanasi. The applicant represented the Inter Railw






Hockey Championship held at Gwalior as employee of D.L.W. Varanasi. He also represented the D.L.W. Junior Hockey championship held at Madras. When the applicant did not receive the formal appointment order, he represented on 22.10.1990. The applicant, on not getting any reply from the respondent, filed O.A. No.1708/92 which was decided by order dated 15.3.2001 with direction to the respondents to decide the representation of the applicant dated 22.10.1990. In compliance to the order of this Tribunal dated 15.3.2001 the respondents decided the representation of the applicant by order dated 02.07.2001 and rejected the request of the applicant, Hence this O.A. which has been contested by the respondents by filing CA.

3. Shri Mohan Yadav, learned counsel for the applicant submitted that perusal of Annexure-3 would reveal that the applicant was appointed on 07.08.1988. The stand of the respondents that he was never appointed as Khalasi is incorrect and also now taking the stand that the applicant was overage on 22.10.1990 for employment in Railways, is far from the truth because on 22.10.1990 the applicant made a representation for supply of the appointment letter.

4. The learned counsel also submitted that the case of the applicant is similar to the case of one Shri Tapan Kumar Mukherjee who filed O.A. No.245/92 and the same was allowed with direction to the respondents to appoint the applicant by order of this Tribunal dated 04.04.1994 and, therefore, the present application of the applicant is also <sup>in liable</sup> to be allowed and the applicant is entitled for the similar relief.

5. Resisting the claim of the applicant Shri Anil Kumar





learned counsel for the respondents submitted that the contention of the applicant that the letter dated 22.10.1990 is representation to demand the copy of the appointment letter is not correct. In fact the applicant <sup>has</sup> applied <sup>for</sup> the post on 22.10.1990 and on that day he was overage and, therefore, could not <sup>be</sup> given appointment even after relaxation.

6. Learned counsel for the respondents further submitted that the applicant was never selected and appointed against Sports Quota on any post in D.L.W., Varanasi. The respondents have also stated in para 5 of the CA that the name of the applicant at serial no.17 was wrongly written and the applicant cannot take any advantage of the same. Besides the respondent have stated that the applicant has not made out any case of rare exception and outstanding Sportsman. The case of the applicant is liable to be dismissed.

7. We have heard counsel for the parties, considered their submissions and perused records.

8. The case of the applicant is for appointment under Sports Quota by giving the admissible relaxation in age. The applicant's counsel submitted that the name of the applicant is at serial no.17 in the select list dated 17.01.1989 (Annexure-3) and the date of appointment has been shown as 07.08.1988. We have perused this letter and we find that at serial 17 the name of One Mohd. Idris has been shown whereas the name of applicant is Idris Ahmad. We are unable to arrive at <sup>a definite</sup> ~~the different~~ conclusion whether both are the same person. We have carefully perused Annexure-3 which is an application dated 22.10.1990. This cannot be treated as a representation at all, <sup>h</sup> requesting the respondents to

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supply the appointment letter, as the applicant maintains that he was appointed on 07.08.1988. If <sup>h h</sup> we accept that whatever the applicant has stated is correct, then we are unable to understand as to why did the applicant made an application on 22.10.1990, the opening part of which reads as under:-

"Having come to know that few posts for Hockey players have fallen vacant under your control, I wish that my candidature may also be considered for the same....."

In the last <sup>h</sup> ~~part~~ <sup>part</sup> of the said letter the applicant has mentioned as under:-

"I am prepared to appear in the trial if called for, I would, therefore, request you to kindly consider my case, for which I shall be highly obliged."

9. The perusal of Annexure-3 leaves no doubt in our mind that the applicant was never appointed on any post before 22.10.1990. Therefore, <sup>h</sup> ~~on~~ <sup>h</sup> 22.10.1990 <sup>h</sup> ~~the date~~ <sup>h</sup> which is <sup>h</sup> crucial <sup>h</sup> ~~and~~ has to be taken into account for calculation of the age of the applicant.

10. In the impugned letter dated 02.07.2001 the respondent no.2 has clearly mentioned that the case of the applicant has been considered in the light of Master Circular no.E(NG)II/90/RR-3/31/MC dated 28.11.1990 and also the instructions issued by Railway Board dated 07.05.1991 i.e. CA-1. The case of the applicant was <sup>h</sup> ~~been~~ <sup>h</sup> for appointment on any post under Sports Quota <sup>h</sup> ~~has~~ <sup>h</sup> been rejected by respondent no.2 on the ground that the maximum age for recruitment in Group D service was 23 years relaxable by General Manager upto 26 years and since the applicant was overage (age being 27 year 9 months and 27 days) on 22.10.1990 the applicant was not eligible for appointment. We have perused the Railway Board letter ~~dated~~ dated 07.04.1991 (Annexure CA-1) and find that the stand of the

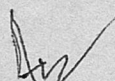
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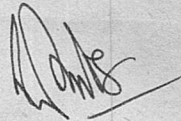


respondents is as per the instructions on the subject.  
We do not find any good ground for interference. The O.A.  
is devoid of merit and is liable to be dismissed.

11. For the aforesaid reasons the O.A. is dismissed being  
devoid of merit.

12. There will be no order as to costs.

  
Member-J

  
Member-A

/Neelam/