

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

No OA 1277 of 1996

Date of Order: 9.12.2004

Present : Hon'ble Mr. Mukesh Kumar Gupta, Judicial Member
Hon'ble Mr. M.K. Misra, Administrative Member

SHRI RANJIT KUMAR DEOGHARIA
VS.
UNION OF INDIA & OTHERS (S.E. RLY.)

For the applicant : Dr. S. Sinha, Counsel

For the respondents : Mr. S. Chaudhury, Counsel

O R D E R (ORAL)

Mr. Mukesh Kumar Gupta, JM:

MA No. 634 & 635/ 2004

By MA 634/ 2004, the applicant seeks restoration of OA No. 1277/ 1996 dismissed on 22.6.2004 for default. While MA 635/ 2004 seeks condonation of delay in filing the miscellaneous application for restoration of aforesaid OA.

We heard learned counsel on both sides. In view of the contents of the aforesaid MAs, delay is condoned, the order dated 22.6.2004 dismissing the OA is recalled and OA is restored to its number.

OA 1277 OF 1996

In this application, the applicant seeks direction to respondents to appoint him to Group 'D' post from the date when juniors to him, who were also ineligible, were appointed, with all consequential benefits.

2. It is stated that the applicant is an unemployed youth of 33 years of age who had passed Madhyamik examination. Based on circular dated 1.11.89, the applications were invited from the wards of Railway employees who retired on or after 30.10.84 but before 31.10.94 to engage them as a substitute casual labourer. The applicant was

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screened and empanelled but no appointment was made despite the fact that certain juniors to him were appointed in the year 1992 and 1994. Therefore, it is contended that the respondents' action in ignoring the applicant's preferential claim was illegal, arbitrary and violative of Articles 14, 16 & 21 of the Constitution of India.

3. The respondents filed their reply and contested the applicant's claim stating that the circular dated 1.11.89 had been challenged before this Bench of the Tribunal in OA No. 968/ 1990 Abdul Sattar and others Vs. Union of India & others and vide judgement dated 13.8.93 the said circular was declared violative of Articles 14 & 16 of the Constitution of India. Following the said judgement, numerous applications being the OA No. 945, 946, 959, 960, 1100 & 1211 of 1993 and others were dismissed. Since the very basis for seeking appointment has been declared to be void and quashed, the applicant has no claim.

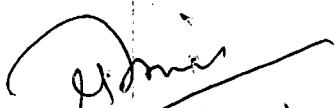
Learned counsel for the applicant on the other hand contended that the applicant's case is covered by judgement dated 28.7.2004 in OA No. 714/ 1994 and the respondents be directed to review the appointments.

4. We heard both sides and perused the application.

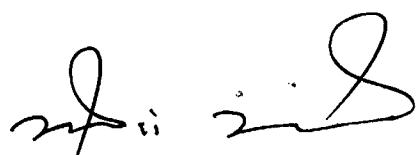
5. Since the circular for screening as well as empanelment dated 1.11.89 has already been quashed and set aside, the applicant has not required any legal and indefeasible right of appointment. As far as the OA No. 714/ 1994 decided on 28.7.2004 is concerned, the Bench in the said order noticed that they were more concerned about the implementation of order dated 13.8.93 passed in OA No. 968/ 1990,

which is not the issue in the present case. A perusal of the aforesaid order in specific case goes to show that the circular dated 1.11.89 was quashed and the respondents were directed to review the appointments made on such basis. This application having been filed much thereafter, cannot be entertained, particularly when the main circular dated 1.11.89 itself has been quashed and set aside.

In view of the above, we find no merits in the present application and the same is dismissed. No costs.



M.K. Misra)
Member (A)



(Mukesh Kumar Gupta)
Member (J)

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