

CENTRAL ADMINISTRATIVE TRIBUNAL  
CALCUTTA BENCH

No.O.A. 319/1996

Date of order : 16.9.2004

Present : Hon'ble Mr. D.C. Verma, Vice-Chairman  
Hon'ble Mr. Sarweshwar Jha, Administrative Member

Rabindra Prasad

VS.

1. Union of India, through the  
Director General of Posts,  
Dak Bhawan, Parliament Street,  
New Delhi
2. Chief Post Master General,  
West Bengal Circle, Yogagog  
Bhaban, Calcutta - 12
3. Assistant Director of Postal  
Service(Rectt.), Office of the  
Chief Post Master General, West  
Bengal Circle, Jogayog Bhawan,  
Calcutta - 12
4. Sr. Superintendent of R.M.S.,  
W.B. Division, Howrah - 711 101

For the applicant : Mr. T. Sarkar, counsel

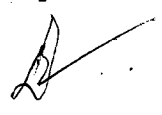
For the respondents : Mr. B. Mukherjee, counsel

O R D E R

Per D.C. Verma, V.C.

By this O.A. the applicant has claimed appointment on the post of Sorting Assistant. The fact in brief is that pursuant to an advertisement the applicant applied for the post of Sorting Assistant. After necessary formalities the applicant appeared in the test and was provisionally selected for the post of Sorting Assistant in the RMS, West Bengal. The applicant was required to produce original documents which were examined by the authorities and thereafter the applicant received the appointment letter for the said post. The applicant was waiting for order of posting but suddenly he was served with the impugned order dated 25.9.1996 by which the selection panel has been cancelled. Hence the present O.A.


2. Ld. counsel for the respondents submitted that a Review Selection Board was constituted to review the selection. After consulting the relevant records of the Selection Board, the Review Selection Committee cancelled the panel. Hence the applicaant, though



empanelled, has no right of appointment. It is also submitted that the Review Selection Board met on 28.3.1995 taking into account all the applications and records of 12 candidates as per the declared vacancy and it was found that Selection Board was not valid as per the existing orders, hence the panel was cancelled by the impugned order.

3. Ld. counsel for the applicant has, on the other hand, submitted that a panel of 12 candidates were prepared vide Office Order dated 1.8.1994. In the said panel, the applicant's name was at Srl. No.11 as will appear from the impugned order dated 25.9.1995. The candidates who appeared at Srl. No.1 to 5 challenged the cancellation order by filing O.A. No.1327/1995(Ashok Kr. Singh & Ors. Vs. Union of India & Ors.). The Tribunal quashed the order dated 25.9.1995 and gave a direction for appointment of the applicants therein. It is submitted that as the impugned order at Annexure-I cancelling the panel dated 1.8.1994 has been quashed, the applicant is entitled for appointment.

4. Ld. counsel for the respondents has, on the other hand, submitted that applicant earlier filed a writ petition before the Hon'ble High Court but did not press it. So, it was dismissed and thereafter the present O.A. was filed. The ld. counsel for the applicant has produced a copy of the order of the Hon'ble High Court which shows that C.O. No.22581(W) of 1995 was filed on the Appellate Side, but was dismissed for non-prosecution vide order dated 28.1.2002. Such a petition was not decided on merit. Consequently, the dismissal of the Writ Petition would have no effect on the merit of the present case. It is noticed that in O.A.No.1327/1995 the 5 applicants who were also in the panel dated 1.8.1994, challenged the cancellation order dated 25.9.1995 on various grounds. The plea now being taken by the respondents in the present O.A. were also taken in the O.A.No.1327/1995. The respondents' plea were rejected and the Tribunal gave the following direction:-

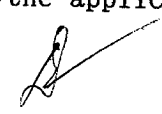


" We, therefore, quash the memo dt.25.9.95, Annexure 'F' to the application and dispose it of with a direction upon the respondents to appoint the petitioners within three months from the date of communication of this order in the post of SA or in comparable post in the RMS, West Bengal Division on the same terms and conditions as stated in the offer of appointment made to them in August, 1994, Annexure 'C' to the application by creating supernumerary post, if necessary."

5. Though the respondents, in this case filed reply in the year 1998 they still contested the applicant's case on the same plea which were raised in the O.A.No.1327/1995. The finding given in O.A.No.1327/1995 has become final as the applicants therein have been already engaged as per the Tribunal's direction. Consequently it was for the respondents to accord similar benefits to other candidates who were empanelled vide letter dated 1.8.1994. Instead of giving offer and making compliance of the Tribunal's direction vis-a-vis similarly situated persons, the respondents contested this O.A.

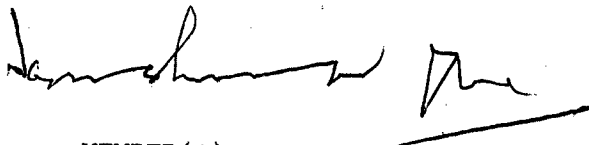
6. We are conscious of the position that mere empanelment does not give rise a right of appointment. Once a panel is prepared, the respondents have to show that appointments to the empanelled candidates were not given because of some reasonable and sufficient grounds. If the action of the respondents are not based on reasonable grounds and is arbitrary, the appointment cannot be denied. In this case, the respondents instead of giving reasons for not giving appointment to the applicant subsequent to the Tribunal's order in O.A.No.1327/1995 have again harped on the same string which were unsuccessfully tuned in O.A.No.1327/1995.

7. During the course of argument it was informed that the person below Srl. No.5 of the panel did not come to join. It is only an attempt to overcome the mistake which has been committed by the respondents. There is nothing on record to show that after the decision in O.A.No.1327/1995 any of the candidates, besides those who were the applicants in O.A.No.1327/1995, were ever given any offer to accept the similar benefits. Even the applicant of this O.A. who



filed this case in March, 1996, was not given any offer after the decision in O.A.No.1327/1995 nor any such recital is made in reply to the O.A.

8. In view of the discussions made above, the O.A. is allowed. The respondents are directed to appoint the applicant within a period of 3 months from the date of communication of this order on the post of Sorting Assistant or on any other post in the RMS, West Bengal Division on the same terms and conditions as stated in the offer of appointment issued to the applicant in 1994 or to appoint the applicant by creating a supernumerary post, if necessary. The O.A. is allowed as per the above directions with cost of Rs.2000/-.

  
MEMBER(A)

  
VICE-CHAIRMAN