

In The Central Administrative Tribunal  
Calcutta Bench

OA 388 of 1996

Present : Hon'ble Mr. D. Purkayastha, Judicial Member  
Hon'ble Mr. B.P. Singh, Administrative Member

Subodh Kumar Singh, son of Shri Ram Chandra  
Singh, residing at East Nimcha Colliery, P.O.  
Bidhan Bag, Dist: Burdwan.

.....Applicant

- Versus -

- 1) The Union of India, service through the Secretary, M/o Communication, New Delhi.
- 2) The Chief Post Master General, West Bengal Circle, Yogayog Bhavan, Calcutta.
- 3) The Post Master General, South Bengal Region, Yogayog Bhavan, Calcutta.
- 4) The Sr. Superintendent of Post Offices, Howrah Division, Howrah.

.... Respondents

For the Applicant : Dr. R.G. Ram, Counsel

For the Respondents: Mr. B.K. Chatterjee, Counsel

Heard on : 16-03-2001

Date of Order : 16-03-2001

O R D E R

D. PURKAYASTHA, JM

The dispute arose in this case is about denial of appointment to the applicant after having been provisionally selected for the post of Postal Assistant under the Howrah Division along with other provisionally selected candidates. According to the applicant, he applied for the post and fulfilled the condition for selection to the post of Postal Assistant. Thereafter, respondents vide letter dated 12-3-1994 directed the applicant alongwith others to submit the original certificates in proof of educational qualification, age, employment exchange card etc. Applicant submitted all the documents as required. Thereafter,

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respondents did not inform anything to the applicant in respect of appointment to the said post and he approached the authority i.e. Sr. Superintendent of Post Office, Howrah Division dated 8-4-95 (Annexure-C to the application). But respondents vide letter dated 30-4-95 (Annexure-D to the application) returned all the documents submitted by the applicant including the original employment exchange card bearing No.3950/93 dated 15.12.93 stating that all these are no longer required by them. Thereafter made a representation dated 15-6-95 (Annexure-E to the application). But respondents did not take any action on the representation of the applicant and ultimately the applicant approached this Tribunal for giving direction upon the respondents to post the applicant to the said post to which he was provisionally selected by the authority.

2. Respondents filed written reply to the O.A. In the reply respondents admitted that applicant was provisionally selected and he was directed to produce original certificates in respect of educational qualification, age, employment exchange card etc. alongwith two xerox copies of each certificate. It is also admitted by the respondents that the documents submitted by the applicant as required vide letter dated 12.8.94 (Annexure-A to the application) had been returned to the applicant on 30-4-95 vide letter Annexure-D to the application. It is also stated by the respondents that after being selected, further verification has been made in respect of the documents produced by the applicant and Employment Officer, Asansol intimated the office of the respondents by a letter dated 23rd/24th August, 1994 that though the registration No. AN-3950/93 dated 15-12-93 in respect of Sh. Subodh Kumar Singh was issued by his office, the above registration had already been cancelled as Sh. Subodh Kumar Singh could not produce his revised ration card and the validity of the registration card expired due to want of the same. According to the respondents, thereafter, fresh review DPC was held on 2-1-1995 in which the candidature of the applicant was cancelled. Since the second DPC did not select the applicant for the aforesaid post on receipt of the information from the Employment Exchange Office, he was not appointed to the said post.

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So, reason for denial of appointment is justified and valid in law.

3. Ld. Counsel Dr. Ram on behalf of the applicant submits that the employment exchange card which was issued in favour of the applicant was valid upto June, 1994 (Annexure-A to the rejoinder) and that document is not disputed by the respondents. So, reason for cancellation cannot be said to be valid in law since applicant had requisite qualification and eligibility. <sup>on the date of application</sup> So provisional selection of the applicant cannot be cancelled <sup>alleged information</sup> by the competent authority <sup>after receipt of the false allegation</sup> from the Employment Exchange Office. Therefore, he has every right to get appointment on the basis of the provisional selection list prepared by the respondents.

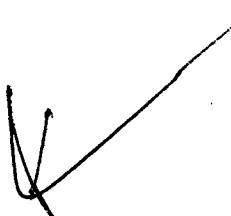
4. Ld. Counsel Mr. Chatterjee on behalf of the respondents contend that applicant was found lack of eligibility for the said post, when, after provisional selection of the candidate, the matter was referred to the Employment Exchange Office for further verification in respect of registration of employment exchange card. Accordingly, the Employment Exchange Officer reported that the applicant could not produce his revised ration card and the validity of the registration card expired due to want of the same. On the basis of that report fresh review DPC was held 2-1-1995 and the said review DPC did not select the applicant. Ld. Counsel further submits that on the date of provisional selection applicant did not hold the valid employment exchange card as per report of the Employment Exchange Officer.

5. We have considered submission of Ld. Counsel of both the parties and we have gone through the records and notification. The main question for decision is whether the reason for denial of appointment as disclosed by the respondents is sustainable in law or not. We find that a notification was issued by the respondents for filling up of the post of Postal Assistant in West Bengal Postal Circle. We have gone through the employment exchange card produced by the applicant alongwith the rejoinder. On a perusal of the said employment exchange card it is found that the card was issued by the Labour Department on 15-12-93 and

it was valid upto June, 1994.

6. Ld. Counsel Mr. Chatterjee contended that on the date of provisional selection registration of the employment exchange card of the applicant was not valid. But we find that applicant was found suitable for appointment to the said post on 6-5-1994. Since his registration of employment card was valid upto June, 1994, we do not find any reason to disallow the applicant after having been provisionally selected for the said post on the basis of the report of the Employment Exchange Officer. The Employment Exchange Officer has stated that his registration has been cancelled, since he failed to produce revised ration card after June, 1994. Whatever might be the reason, we are of the view that respondents did not act properly, because of the fact that applicant had requisite qualification and eligibility for the post on 6.5.94 on the basis of the notice of recruitment dated 15.3.94 issued by the Assistant Director of Postal Services (R), West Bengal Circle, Calcutta-700 012. In the said notice of recruitment dated 15.3.94, the last date of acceptance of the application was on 6-5-94. So, cut off date in filing application was 6-5-1994. In view of the reason, denial of appointment to the applicant cannot be said to be sustainable in law and it is arbitrary. Ld. Counsel Mr. Chatterjee further submits that application is barred by limitation since applicant did not approach the Tribunal before appointment of the other candidates after due selection. But we find that applicant made a representation to the authority when his appointment was delayed and respondents returned all the documents to the applicant vide letter dated 30.4.95. In that letter they did not show any cogent reason for his non-appointment; rather they stated that the documents submitted by the applicant are no longer required by them. In view of the aforesaid circumstances, we are of the view that application cannot be said to be barred by limitation since representation of the applicant has <sup>been</sup> ~~been~~ disposed of by the respondents before approaching the Tribunal. So, we direct the respondents to consider the case of the applicant on the basis of the provisional selection and to issue letter of appointment accordingly. He should be <sup>within two months from the date of disposal</sup> ~~of the~~ <sup>order</sup>

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given benefit of seniority from the date of joining of other candidates who are found junior to the applicant. But he would not be entitled to get any pay and allowance. With this observation, application is allowed.

B.P. Singh  
( B.P. Singh )  
Member(A)

D. Purkayastha  
( D. Purkayastha )  
Member(J)  
16/3/2001

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