

CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR

OA 225/1995

Hon'ble Shri S.P. Biswas, Member(A)

Hon'ble Shri A.K. Misra, Member(J)

October, 16, 1996

Shri Sualal Gurjar

s/o Shri Heeralal Gurjar

Railway Colony, Abu Road

Applicant

(By Advocate Shri S.M. Singhvi)

versus

Union of India, through

1. General Manager

Western Railway, Church Gate

Bombay

2. Divisional Railway Manager

Western Railway, Ajmer Division

Ajmer

3. Dy. Chief Mechanical Engineer

Western Railway, Abu Road

4. Chief Works Inspector

Western Railway, Abu Road

Respondents

(By Advocate Shri R.K. Soni)

ORDER

Hon'ble Shri S.P. Biswas

The applicant has assailed A-1 order dated 9.5.95

by which the results of the successful candidates

including that of applicant declared by order dated

21.3.95 and 17.4.95 stand cancelled. The applicant

states that he has been successful in the written

examination held on 9.2.95 for the post of UDC, was

promoted as such by order dated 17.4.95 and posted at

Abu Road. While he expressed his willingness to join

the new post at Mt. Abu, the impugned order has been

issued. The applicant seeks to quash the above A-1

order and issuance of a direction to respondents to

allow him to join the promotional post as per order

dated 17.4.95.

2. As per counsel, the right to promotion has accrued to the applicant because after the declaration of results, orders (dated 17.4.95) for posting and the other order (dated 5.5.95) to join the post were issued and hence the respondents' subsequent order of 9.5.95 withdrawing the offer is capricious and illegal. The counsel further contended that the said order is in violation of the principles of natural justice as it does not disclose the reasons for cancellation.

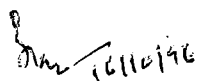
3. In reply, the respondents have submitted that the present OA is pre-mature to be adjudicated upon by the Tribunal since the applicant has not availed of an alternative departmental remedy by way of representation to the answering respondents which is a mandatory provision under Section 21 of the Administrative Tribunals Act, 1985. The respondents do admit that A-9 dated 5.5.95 was issued by them. But in the meantime, certain administrative procedural irregularities in the said suitability list of Senior Clerks (Scale Rs.1200-2040/RPS) were noticed and those errors had to be corrected by issuing A-1 order dated 9.5.95. This correction was in the interest of all the employees, the respondents would submit.

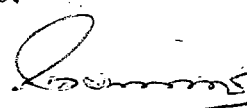
4. The only point for determination is whether an individual has a legal right for appointment to a post when he/she comes out successful in an examination for a

promotional post and his/her name appears on the relevant select list meant for filling up of the vacancies.

5. It is well settled by a long line of decisions of the Hon'ble Supreme court that mere inclusion of name in a select list confers no enforceable right for appointment to a post. The law laid down by the apex court in Sankaran-Dash Vs. UOI 1991(2) SLR 779(SAC), Jai Singh Dalal & Ors. Vs. State of Haryana and Anr. SLR Vol.87, 1993(1) 422 = 1993 Supp.(2) SCC 600, Gujarat State Dy. Exc. Engineers Association Vs. State of Gujarat and Ors., 1994(3) All India service Law Journal, 5, and State of MP and Ors. Vs. R.S. Jadav & Ors. (1994) 28 ATC 255 is very clear on the issue. A candidate whose name appears in the merit list on the basis of a competitive examination does not acquire any indefeasible right of appointment even if vacancies exist. The decision not to fill up the vacancies has to be taken ~~bonafide~~ for valid reasons. We find the impugned order was issued on account of certain infirmities that took place in the selection process, though noticed subsequently. State is entitled to correct such errors, though detected almost at the fag end of the process.

6. For the reasons aforesaid, the OA fails on merits and is dismissed accordingly. No costs.


(A.K. Misra)
Member(J)


(S.P. Biswas)
Member(A)

/gtv/