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CENTRAL ADMINISTRATIVE TRIBUNAL

JODHPUR BENCH, JODHPUR.

M.A.141/95 in
O.A.No.233/95

Date of Order : 08.11.1996

Mohan Singh & Sanjiv Kumar

...Applicants.

VERSUS

Union of India & Others

Respondents.

Present :

Mr. J.K. Kaushik, Counsel for the Applicants.

Mr. R.K. Soni, Counsel for the Respondents.

CORAM :

HON'BLE MR. S.C. VAISH, ADMINISTRATIVE MEMBER

HON'BLE MR. A.K. MISRA, JUDICIAL MEMBER.

ORDER :

(PER HON'BLE MR. S.C. VAISH)

The two applicants Mohan Singh and Sanjiv Kumar completed their apprenticeship training at Diesel Shed, Abu Road, Western Railway. Thereafter they participated in a selection for Group D post in the Diesel Shed, Abu Road. They were not successful and a list of successful candidates released on 8.10.1993. Their name does not find a mention in the list. They have now come to the Tribunal with the grievance that according to the Railway Board order dated 23.8.73, 50% of the vacancies are for out-siders including the apprentices, but General Manager by his order dated 14/28.4.1988 has deleted this and hence they were not recruited. They have urged that it is only the Railway Board which can frame Rules for Group C and D posts and not the General Manager. The applicants have not sought any interim relief and relief they have sought is reproduced below :-

"8. RELIEF(S) SOUGHT

In view of the mentioned facts in para 4 and 5 above, the applicants pray for the following reliefs :-

(i) That the impugned order dated 14/28.4.1988 (Annexure A/2) framed by the General Manager so far it relates to changing of the quota for various category and inconsistent to the rule framed by the Railway Board in regard to filling up the vacancies in Group 'D' category in Workshop may be struck down and Respondents may be directed to empanel the eligible persons according to the quota prescribed/provided by the Railway Board in para 4(3) and the impugned panel dt 8.10.93 (Annex.A/1) may be modified accordingly

and applicants be allowed all the consequential benefits.

(ii) Any other order/direction/reliefs may be passed in favour of the applicant which may be deemed fit, just and proper under the facts and circumstances of the case.

(III) That the cost of this application may be awarded."

2. Notice was issued to the Respondent-Railways who have filed a reply contesting the application. The respondents also urged to be heard on the preliminary objections to the application.

3. We have heard Shri J.K. Kaushik for the applicants and Shri R.K. Soni, for the respondents on preliminary objections. The first objection taken by the respondents is that the applicants do not hold a civil post under the Government and hence, the jurisdiction of this Tribunal is not attracted. This objection is of no avail as the Tribunal has jurisdiction over recruitment matters u/s 14(1) of the Administrative Tribunals Act, 1985. The second objection taken by the respondents is that the Railway Board instructions of 1973 pertain to Group D class of vacancies in workshop and not to Group D posts of Diesel Shed for which the recruitment has been made. This is a matter for adjudication and cannot be treated as preliminary objection. However, the respondents have pleaded the ground of limitation. The list of selected candidates was released on 8.10.93 and this application was filed in the Tribunal on 23.5.95 i.e. after one year and seven months. There is no averment that the applicants had represented to the respondents in the matter. In a case of recruitment, the applicant has to be vigilant and prompt and cannot agitate against a recruitment after one year and seven months. Moreover, the relief clause is so worded that in para 1 of the relief, the applicant has challenged the General Manager's Circular dated 14/28.4.1988 and he has specifically not challenged his non-selection but merely sought consequential benefits. The relief as it is worded is defective. Even if the Circular dated 14/28.4.88 is adjudicated upon, there is no consequential reliefs to the applicants as they appear^{ed} for the selection and were not selected and challenged the selection after one year and seven months. The period of limitation prescribed under section 21 of the Administrative Tribunals Act, 1985, is one year.

4. In the above circumstances, the application is dismissed in limine as barred by limitation.

Sd/-

(A.K.MISRA)
Member(Judicial)

Sd/-

(S.C.VAISH)
Member(Administrative)