

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

JODHPUR BENCH : JODHPUR

Date of order : 01.10.1999

O.A. No. 306/95

Jagraj Singh son of Shri Nagar Singh aged about 35 years resident of C/o. Sub Record Officer, Sriganganagar, at present employed on the post of E.D. Mailman in the office of S.R.O. Sriganganagar (Rajasthan).

... Applicant.

v e r s u s

1. Union of India through the Secretary to Government of India, Ministry of Communication (Department of Posts), Dak Bhawan, New Delhi.
2. The Superintendent, Railway Mail Service, S.T. Division, Jodhpur.
3. Shri Ruda Ramji, Mail Guard in the office of S.R.O., Sriganganagar (Rajasthan).

... Respondents.

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

Mr. Vinit Mathur, Counsel for the respondents.

CORAM:

Hon'ble Mr. A.K. Misra, Judicial Member.

Hon'ble Mr. Gopal Singh, Administrative Member.

O R D E R

(Per Hon'ble Mr. Gopal Singh)

Applicant, Jagraj Singh, has filed this application under Section 19 of the Administrative Tribunals Act, 1985, praying for setting aside the order dated 17.4.95 (Annexure A/2) and for directing the respondents to delete the name of the respondent No. 3 from the impugned panel dated 6.5.94 (Annexure A/1) and for considering the name of the applicant for empanelment

*Gopal Singh*

14

according to his merit position, with all consequential benefits. The applicant has also prayed that the promotion order of the respondent No. 3 may be quashed.

2. Applicant's case is that he was initially appointed on the post of E.D. Mail Man on 15.9.83. In the gradation list as on 1.1.91, applicant's name figured at Sl. No. 11 in which the date of appointment of the applicant was shown as 3.2.90 instead of his actual date of appointment, i.e., 15.9.83. Applicant's representation in this regard was decided by the respondents vide their letter dated 30.9.94 (Annexure A/5) and the date of appointment was corrected as 15.9.83. That the respondents invited applications vide their letter dated 12.1.94 (Annexure A/8) for filling up the post of Mail Guard and the applicant alongwith the respondent No. 3 applied for the same. However, the selected panel included the name of the respondent No.3 and not that of the applicant. Applicant's contention is that the respondent No. 3 was not eligible to appear in the examination for Mail Guard as he was initially appointed on 10.1.91 and on date of application for the said examination, he was not having 5 years regular service which was one of the eligibility conditions for appearing in the said examination. Feeling aggrieved, the applicant has approached this Tribunal through the present O.A.

3. Notices were issued to the respondents and they have filed the reply to which the applicant has filed a rejoinder. In the reply, it has been pointed out by the respondents that the applicant was appointed as Extra Departmental (Unapproved Candidate) with effect from 15.9.83 and subsequently, he was given regular appointment as E.D. Mail Man with effect from 3.2.90. It has also been pointed out by the respondents that the respondent No. 3 (Ruda Ram) was initially appointed as E.D. (Rest House Attendant) at Merta Road with effect from 25.6.86 and on abolition of the post of E.D. (RHA), he was appointed as Part Time R.H.A. from 9.5.90 to 9.1.91 and, thereafter, he was appointed as E.D. Mail Man, Ratangarh, with effect from 10.1.91. It is the contention of the respondents that the respondent No. 3 was eligible to appear in the said examination.

4. We have heard the learned counsel for the parties and

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perused the records of the case carefully.

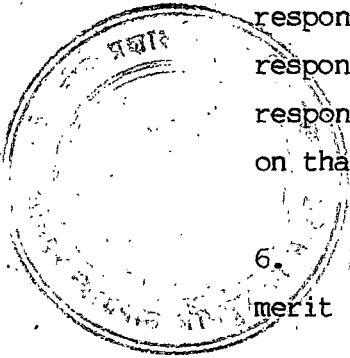

5. The statement of the respondents that the applicant was initially appointed on 15.9.1983 as E.D. (Unapproved Candidate) and was given regular appointment with effect from 3.2.90 has not been categorically contested by the applicant. In the rejoinder, the applicant has mentioned that he has been treated to be a regular appointee as E.D. Mail Man and given seniority with effect from 15.9.83. About the facts stated by the respondents in respect of respondent No. 3, it has been stated by the applicant in the rejoinder that the respondent No. 3, Shri Ruda Ram, was never appointed as Extra Departmental Agent. It has also been stated by the applicant that Shri Ruda Ram was employed as an unapproved candidate on monthly order and was not appointed as Extra Departmental Agent till 10.1.91. It is seen from the statements made in the application as also in the rejoinder that the fact that the applicant was appointed as E.D. (Unapproved Candidate) on 15.9.83 and was offered regular appointment on 3.2.90. The respondents have also placed on record a letter dated 24.12.90 (Annexure R/3) wherein it is seen that the respondent No. 3 was appointed on 25.6.86 to 9.5.90 as ED (Rest House Attendant) and thereafter appointed 'part time' on abolition of the post of E.D. (RHA), Merta Road. The fact remains that respondent No. 3 was initially appointed on 25.6.86 and both the applicant as also the respondent No. 3 were appointed in unapproved category. On a representation by the applicant, his date of entry was changed to 15.9.83. It appears that the respondent No. 3 did not make such representation though his case was also on the same footing. It is also very clear from the respondents letter dated 12.1.94 (Annexure A/8) that the eligibility conditions was that E.D. employee should have completed 5 years of service as on 31.12.92 for appearing in the selection test for the post of Mail Guard. We are of the view that both the applicant as also the respondent No. 3 were having more than 5 years of service to be eligible for the above mentioned selection and both of them had appeared in that examination. It is only after the applicant has not been empanelled that he has brought out this infirmity of the respondent No. 3 of not fulfilling the eligibility conditions. It has also been contended that there is no post of E.D. (RHA) in terms of E.D. Conduct and Service Rules. Here, it is

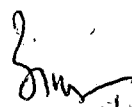
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mentioned that there may not be a post as E.D. (RHA). But the respondent-department had utilised the services of the respondent No. 3, Shri Ruda Ram, on that post and as such, respondent No.3 cannot be denied the benefit of service rendered on that post.

6. In the light of the above discussion, we do not find any merit in this application and the same deserves to be dismissed.

7. The O.A. is accordingly dismissed with no order as to costs.

  
  
(GOPAL SINGH)  
Adm. Member

  
1/10/99  
( A.K. MISRA )  
Judl. Member

cvr.