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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR
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Date of order : 9.3.2000

O.A.NO. 276/96

Shri Pukhai S/o Shri Mulla, aged about 40 years, Working as a Works Mate under Inspector of Works (Construction), Dy.Chief Engineer (Construction), Northern Railway, Bikaner, R/o Q.No. 238-B, Railway Colony, Lalgah, Bikaner.

.....Applicant.

VERSUS

1. Union of India through General Manager, Northern Railway, Baroda House, New Delhi.
2. Chief Administrative Officer (Construction), Kashmiri Gate, Northern Railway, Delhi.
3. Dy.Chief Engineer (Construction), Northern Railway, Bikaner.
4. Assistant Personnel Officer, Divisional Railway Manager Office, Northern Railway, Bikaner.
5. Assistant Engineer (Construction), Northern Railway, Bikaner.

.....Respondents.

CORAM:

Hon'ble Mr.A.K.Misra, Judicial Member
Hon'ble Mr.Gopal Singh, Administrative Member

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Mr.Y.K.Sharma, Counsel for the applicant.
Mr.S.S.Vyas, Counsel for the respondents.
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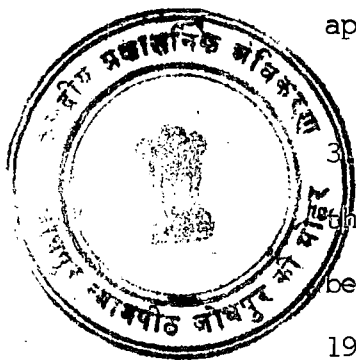
PER HON"BLE MR.A.K.MISRA :

The applicant had moved this O.A. with the prayer that the respondents be directed to post the applicant as Works Mate against 60:40 reserved quota in the Construction Organisation for which the applicant appeared in screening on 19.8.91. The applicant had also prayed for interim relief seeking stay of the operation of Annex.A/1 dated 5.8.96 qua the applicant but the prayer of interim relief was

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not pressed at any point of time by the learned counsel for the applicant during the pendency of the O.A.

2. Notice of the O.A. was issued to the respondents who have filed their reply in which it is stated that applicant was not screened in the year 1991 as claimed by him, therefore, there is no question of with-holding the result of the said screening by the respondents. It is also stated by the respondents that the applicant had appeared in a subsequent screening test organised in the year 1996. He was declared fit for the post of Safaiwala as per his medical and physical fitness category and Annex.A/1 was issued. Therefore, the applicant is not entitled to any relief as claimed by him.



3. We have heard the learned counsel for the parties and have gone through the case file. The applicant in the instant case is claiming benefit of being posted on a post as per the screening of the year 1991 but he had appeared in a subsequent screening held in February and March 1996 without any protest, the result of which is Annex.A/1. The applicant had only sought the declaration of the result of the earlier screening vide his letter dated 10.4.96, Annex.A/3 and took no action thereafter. The applicant is now claiming the benefits of the earlier screening after a lapse of almost five years through this O.A. therefore the O.A., in our opinion, is badly affected by limitation and deserves to be dismissed on this ground alone.

4. Considering the application on merits, we come to the conclusion that the applicant is not entitled to the relief as he has claimed in the O.A. The applicant says that he was screened in the year 1991 as per the recommendatory letter Annex.A/2 for undertaking the screening test. But, there is nothing on record to show that applicant was ever screened in the year 1991. The case of

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the respondents is that only those candidates were entitled to be screened who had completed 2700 days of working as on 31.12.85. But the applicant had not completed 2700 days of working, therefore, he was not screened. There is nothing on record to show that applicant was screened pursuant to Annex.A/2.

5. During the course of arguments, the learned counsel for the applicant submitted that as per the letter Annex.R/1 supplied to him alongwith copy of the reply, the applicant had completed more than 2700 days of working as on 31.12.85 as shown in the letter and, therefore, it should be presumed that he was screened. But we are unable to agree to this argument. The letter as is being relied upon to have ^{been} supplied by the respondents to the applicant, is nowhere referred in the reply nor it forms part of the reply. It has also not been appended to the reply as Annex.R/1. Therefore, it cannot be believed that the letter as is tried to be referred by the learned counsel for the applicant in the argument was ever made part of the reply by the respondents, therefore, the same cannot be taken to be a document of the respondents. Even in Index no such reference of any enclosure or annexure has been shown. The reply as per the Index runs up to 23 pages (running pages) and no page as number 24 is either mentioned in the index or is attached to the reply as has been referred by the learned counsel for the applicant. Therefore, the same cannot be acted upon by us.

6. It is clear from the letter dated 24.8.91 (Annex.A/1) that the concerned department was to forward list of casual workers for screening for promotional categories who had completed 2700 days of working. Along with this letter, a list was sent in which name of the applicant appears at number 11 in which 2756 days of working have been shown. As against these facts it is very clearly stated



by the respondents that on verification as per the list it was found out from the casual labour card that applicant had worked only for 2555 days as on 31.12.85 and, therefore, he was not screened. This reply was given by the respondents as far back as February 1997 i.e. more than 3 years ago as on date. But this specific assertion of the respondents was not controverted by the applicant, therefore, it is difficult to believe that the applicant was screened in pursuance to Annex.A/2. The applicant is claiming the benefit as per his screening said to have been conducted on 29.8.91. But there is nothing on record to show that he was at all screened in the year 1991. Therefore, he cannot claim to be posted as Works Mate against 60:40 reserved quota in the Construction Organisation. In our opinion, the O.A. also has no merit.



7. In view of the above discussions, the claim of the applicant is liable to be rejected both on account of bearing no merit as well as hopelessly time barred. The O.A. is, therefore, dismissed. The parties are left to bear their own costs.

Gopal Singh
(GOPAL SINGH)
Adm. Member

A.K. Misra
9/3/2000
(A.K. MISRA)
Judl. Member

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mehta