

1/8

CENTRAL ADMINISTRATIVE TRIBUNAL  
JODHPUR BENCH, JODHPUR.

Date of Order : 20.04.2000.

ORIGINAL APPLICATION No. 325/1999.

G. C. Goyal son of Shri Dayal Chand, aged about 40 years, resident of 3/334, RHB Hanumangarh Jn, at present employed on the post of Office supervisor ( under suspension ), in the office of Superintendent of Post Offices, Jhunjhunu.

APPLICANT...

VERSUS

1. Union of India through Secretary to Govt. of India, Min. of Communication, Department of Post, Sansad Marg Dak Bhawan, New Delhi.
2. Director General, Department of Post, Sansad Marg, Dak Bhawan, New Delhi.
3. Chief Post Master General, Rajasthan Circle, Jaipur.
4. Post Master General, Rajasthan Western Region, Jodhpur.

RESPONDENTS..

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

Mr. Vinit Mathur, counsel for the respondents.

CORAM

Hon'ble Mr. Justice, B. S. Raikote, Vice Chairman.

Hon'ble Mr. Gopal Singh, Administrative Member.

ORDER

( per Hon'ble Mr. Gopal Singh )

In this application under Section 19 of the Administrative Tribunals Act, 1985, applicant G. C. Goyal has prayed for quashing the impugned order dated 22.10.1999 and for a direction to the respondent to consider the candidature of the applicant for

*Gopal Singh*

promotion to the post of PSS Gr B as per his merit and the Rules in force with all consequential benefits

2. Applicant's case is that he was initially appointed as Postal Assistant on 04.03.1978 at Hanumangarh Junction. He earned various promotions in due course and he is presently working on the post of Office Supervisor in the office of Supdt. of post Offices, Jhunjhunu. The respondents department conducted an examination for the year 1996 for the post of PSS Gr B vide letter dated 26.08.1997 ( Annexure A-4 ). The applicant fulfilled the requisite conditions to be eligible to take the said examination applied for the same, but his candidature was kept provisional. He took the examination and subsequently vide letter dated 22.10.1999, the applicant was informed that his candidature for the said examination was cancelled. It pointed out by the applicant that in the year 1997 he was implicated by the C.B.I. Team for alleged illegal gratification case and the said criminal case was decided on 11.05.2000, whereby the applicant was exonerated by the C.B.I. Team. It has therefore, been contended by the applicant that the result of his examination should have been kept in a sealed cover, to be opened after his exoneration in the C.B.I. case. Now, that the applicant has been exonerated in the C.B.I. case, he should be granted ~~xx~~ the benefits due to him. Hence, this application.



3. In the counter, the application has been denied by the respondents, they have cited LCP&T letter dated 12.12.1994 in regard to cancellation of the provisional candidature of the applicant and it

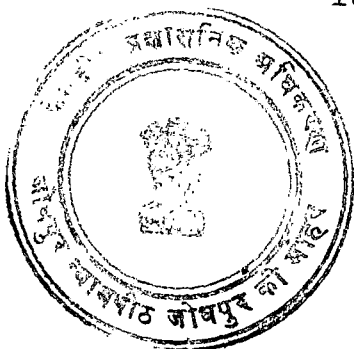
*Cyrala*

- 3 -

has been, therefore, submitted that the application is devoid of any merit and is liable to be dismissed.

4. We have heard the learned counsel for the parties and perused the records of the case carefully.

5. There is no dispute that the applicant's candidature was kept provisional as he was facing a criminal case by the C.B.I. Though, he was initially allowed to appear in the examination, his candidature was cancelled subsequently by the respondents department. In this connection, we consider it appropriate to reproduce below DGP&T letter dated 12.12.1994.



" Sub : Regularisation of provisional candidature of candidates taking departmental promotion examination held in the Deptt. of Posts-instructions regarding.

Sir,

I am directed to inform that instances have come to the notice of Dte. where the circle offices have been taking up cases of regularisation of provisional candidates from their circles in respect of the centrally controlled departmental promotion examinations after cancellation of their candidature. It has been observed that candidature of such candidates is regularised after the examination has been conducted and belated intimation is sent to the Dte. In accordance with the existing rules once the candidature of any candidate is cancelled by the circle office, his/her name is removed from the list of candidates before finalising the results of the examinations. There is no provision in rules for regularisation of their candidature once it is cancelled by the circle officer.

Instructions time and again have been issued that the provisional candidature taking departmental promotion exams, should


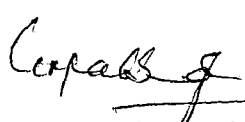
*Copied of*


be regularised as early as possible and in any case within a period of two weeks after the holding of the concerned examination. No action with regard to provisional candidates for communication of marks etc. will be taken untill it is regularised by the circle office within the prescribed period as mentioned above. Responsibility for regularisation of provisional candidature primarily rests with the circle offices as pointed out in d.o. letter no. 7-1/92/Dt dt. 16.04.1992 issued by the then Member (P) .

03. These instructions may please be noted for strict complinace.

6. The above mentioned letter is in the nature of instructions issued on the subject, but do not take the shape of a rule. As a matter of fact, since a criminal case was pending against the applicant at the relevant time, his candidature should have been cancelled only after knowing the result of the criminal case. Thus, in our opinion, the respondents department erred xxxxx in cancelling the candidature of the applicant for the said examination. Now, that the applicant has been exonerated of all the charges, it would be just and appropriate that ~~the~~ the result of the applicant for PSS Gr B examination held for 1996 be declared and the applicant be extended ~~of~~ the benefits as per his result. Accordingly, we pass the order as under : -

" The O.A. is allowed. The respondents letter dated 22.10.1999 ( Annexure A-1 ) is quashed and set aside. Respondents are directed to declare the result of the applicant of the PSS Gr B examination held for the year 1996 and in case he is declared successful, the applicant should be extended promotion and all the other consequential benefits, as if no criminal case was pending against him. No costs " .

  
  
( GOPAL SINGH )  
Admn. Member

  
( B. S. RAIKOTE )  
Vice Chairman

Receipt  
Deaues  
26/4/2021

R/copy  
Vic.  
25/4 25/4

Part II and III destroyed  
in my presence on 29/3/27  
under the supervision of  
section officer ( ) as per  
order dated 19/2/27

Section officer (Record)