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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH : JODHPUR

Date of order : 16.05.2002

O.A. No. 89/2001

Luna Ram son of Shri Sharvan Das aged 37 years village Bilanga, Post Sarodiya, Via Lalgah, District Churu, selected but not appointed on the post of Pharmacist in the Railway Department.

... Applicant.

v e r s u s

1. Union of India through the General Manager, Western Railway, Church Gate, Mumbai.
2. The General Manager (Establishment), Western Railway, Church Gate, Mumbai.
3. Chairman, Railway Recruitment Board, Ajmer.

... Respondents.

Mr. Ram Kishore Soni, Counsel for the applicant.
Mr. Raj Kamal Soni, Counsel for the respondents.

CORAM:

Hon'ble Mr. Justice O.P. Garg, Vice Chairman
Hon'ble Mr. A.P. Nagrath, Administrative Member

: O R D E R :

(Per Hon'ble Mr. Justice O.P. Garg)

An advertisement for recruitment to various posts was made by the Railway Recruitment Board, Ajmer. The applicant was one of the candidates who applied for the post of Pharmacist. He was allotted Roll No. 600119. A written examination was conducted. The applicant was successful in the written examination. On the basis of the said written examination, he was called for interview on 26.12.95 vide letter dated 6.12.95 (Annexure A/4). The result of.

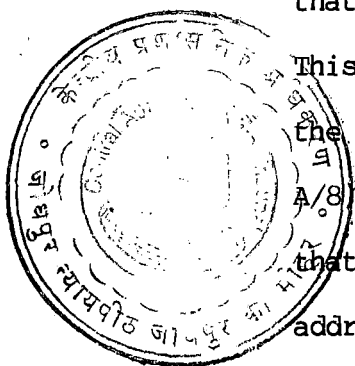
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the interview was declared on 27.12.95 by the Railway Recruitment Board, Ajmer. The applicant was successful and was positioned at serial No. 40 in the merit list. The applicant did not receive any appointment order. He wrote a letter to the Railway Recruitment Board and the Board vide letter dated 30.12.95 (Annexure A/6) informed the applicant that a recommendation has been made in his favour for appointing him as Pharmacist in the scale of Rs. 1350-2200 (RPS) to the appointing authority, i.e., the General Manager, Western Railway, Bombay. The applicant was advised by the Railway Recruitment Board to take up the matter with the appointing authority and refrain from making correspondence with the Board. Thereafter, the applicant wrote a letter dated 11.03.96 (Annexure A/7) to the General Manager, Western Railway, Bombay, to issue appointment letter to him. In the said letter, he had mentioned that the appointment letter be sent to him on his permanent address.

This letter, it appears, did not evoke any response. Consequently, the applicant again sent a registered letter dated 11.6.96 (Annexure A/8). In this letter, the applicant has specifically mentioned that the appointment letter be issued to him at his permanent address, i.e., village Bilanga, Post Sarodiya, Via Lalgah, District Churu, Rajasthan : 331 518. It appears that the respondent-department did not take note of the permanent address intimated by the applicant in his application, by which he desired that the appointment letter be issued to him on the changed address.

2. The applicant, thereafter, continued to represent his case repeatedly in between the period 31.08.99 to 12.2.2001 by making several representations, which are Annexures A/9 to A/14. In response to the last representation dated 12.02.2001, the applicant was informed that an appointment letter was issued to him on 06.07.99, a copy of which is Annexure R-II to the reply and it was followed by a reminder letter dated 02.09.99 (Annexure R/III) and when the



and

applicant did not join on the post of Pharmacist pursuant to the appointment order issued to him, the offer of appointment was cancelled by the impugned letter dated 1.3.2001 (Annexure A/1). It is in these circumstances, the applicant has approached this Tribunal under Section 19 of the Administrative Tribunals Act, 1985. A detailed reply has been filed by the respondents.

3. We have heard Shri Ram Kishore Soni, learned counsel for the applicant as well as Shri Raj Kamal Soni, appearing on behalf of the respondents.

4. There is no dispute about the fact that when the applicant applied for the post of Pharmacist, he had given his address as C/o, Sangam Medical Store, Gandhi Chowk, Ladnu, District Nagaur, Rajasthan : 341 306. The learned counsel for the applicant pointed out that the applicant was then temporarily stationed there and was in the process of learning work in the Medical Store. He ultimately shifted to his permanent address, i.e., village Bilanga, Post Sarodiya, District Churu. He had sent letters to the respondent-department through registered post for sending him the appointment letter at his permanent address aforesaid. It became necessary as for a long period of more than four years, appointment letter was not issued.

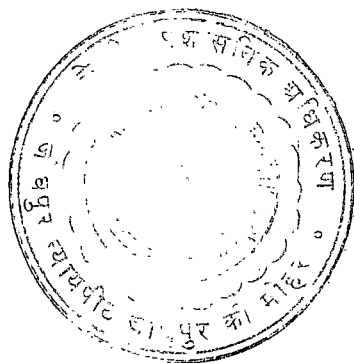
5. From the material brought on record, it appears that the appointment letter was issued on 6.7.99 at the address which was mentioned in the application by the applicant. The applicant has taken a categorical stand that neither he received the appointment letter nor the reminder requiring him to join the post within 15 days.

6. Now the question is whether in the circumstances mentioned above, the appointment offered to the applicant after due selection

[Signature]

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by the Railway Recruitment Board could be cancelled. We find that the applicant was not at fault. Prior to the issue of the appointment letter by the respondents, atleast on 11.06.96 he had addressed a letter (Annexure A/8) through registered post to the competent authority to take note of his permanent address and to send the appointment letter at the changed address and not on the address, which was mentioned in the application form. On account of the sheer lapse on the part of the respondent-department, the letter dated 11.6.96 (Annexure A/8) addressed to the General Manager, Western Railway, Bombay, was not taken note of and the appointment letter was sent on the original address given by the applicant in the application form.



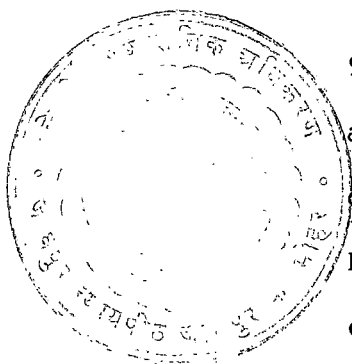
7. The fact that the applicant has been pursuing the matter from 31.08.99 to 12.02.2001 further reflects his bonafides. If the applicant had, in fact, received the appointment letter dt. 6.7.99 followed by the reminder letter dated 2.9.99 as asserted by the respondents, the question of his sending a number of letters did not arise. The applicant has, as a matter of fact, done all what was expected of him. After all a person is not supposed to be stationary and no sooner he shifted from the place indicated in the form, he intimated the changed address. The conduct of the applicant is quite natural and probable. We accept the stand taken by the applicant that he never received the appointment order dt. 6.7.99 (Annexure R/2) and the reminder letter dated 2.9.99 (Annexure R/III). The whole difficulty has arisen on account of the failure of the respondent department in taking note of the registered letter sent by the applicant on 11.6.96 (Annexure A/8) in which the applicant has specifically requested that the appointment letter be sent to him at his permanent address, i.e., Vilalge Bilanga Post Sarodiya, Via Lalgah, District Churu, Rajasthan.

8. The applicant was duly selected by the Railway Recruitment Board. He was successful in the written examination. He also did

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well in the interview. He was placed at serial No. 40 in the merit list. He cannot be denied the benefit of appointment on the post of Pharmacist for which he was selected. The learned counsel for the respondents however, pointed out that the vacancy of the year 1995 for which the applicant has been offered appointment, stands utilised and now no vacancy is available for appointment of the applicant. We find it difficult to agree with the learned counsel for the respondents. Vacancies do arise quite off and on in the vast Railway Department. Since the applicant was not at fault and the appointment letter was not sent by the respondents at his permanent address aforesaid as specifically indicated by the applicant, it would result in serious miscarriage of justice if he is denied the benefit of appointment on the post of Pharmacist.

9. In view of the above glaring facts in favour of the applicant, we allow the O.A. with a direction that the respondent-department, i.e., the General Manager, Western Railway, Church Gate, Bombay, shall appoint the applicant against any vacancy which may be existing and available presently and if no vacancy is available, against the first vacancy which may occur in the near future. While making the appointment, the appointing authority shall not be swayed away by the fact that during the interim period of seven years, the applicant has become over-aged. No order as to costs is made.



[Signature]

(A.P. Nagrath)
Adm. Member

[Signature]

(Justice O.P. Garg)
Vice Chairman

cvr.

Part II and III destroyed
in my presence on 12-7-07
under the supervision of
section officer () as per
order dated 11-15-07

[Signature]
Section officer (Records)

Received Copy
Patroling
Adv.
21-5-02

AS- Gen
24/5/02