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**Central Administrative Tribunal
Jodhpur Bench**

Original Application No. 49/2003

Date of Decision: 12.07.2005

CORAM

Hon'ble Mr. J.K. Kaushik, Judicial Member.

1. Jitendra Singh S/o Hem Singh, aged about 22 years.
2. Roop Singh S/o Mehtab Singh, aged 26 years.
3. Raju Ram S/o Mehtab Singh, aged about 26 years.
4. Raju Ram S/o Uda Ram, aged about 25 years.
5. Hukma Ram S/o Chunni Ram, aged about 24 years.
6. Shri Kishan S/o Mana Ram, aged about 24 years.

.....Applicants.

(Mr. Y.K. Sharma, Counsel for applicants.)



VERSUS

1. Union Of India through Secretary, Ministry of Defence, Raksha Bhawan, New Delhi.
2. Head Quarter., Western Command, Ordnance Branch, Chandi Mandir.
3. 27th Ammunition Company C/o. 56 A.P.O.

.....Respondents.

(Mr. Vinit Mathur, Counsel for the respondents.)

ORDER

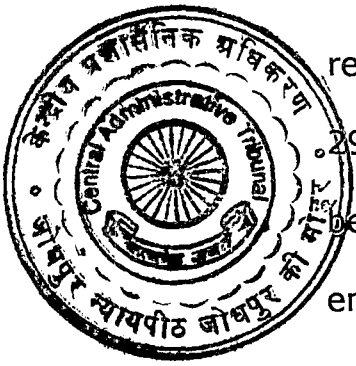
Mr. J.K. KAUSHIK, JUDICIAL MEMBER

Shri Narendra Singh S/o Hem Singh, aged 21 years and 6 others initially filed the Original Application before this Bench of the Tribunal for seeking a direction to the respondents to recruit them against the regular posts of Mazdoor on which they had worked previously and for which the application have been said to be were invited. Subsequently, the name of Shri Narendra was got deleted for the reason that he had been given the appointment. Therefore, the net result is that there are six applicants i.e. Jitendra Singh and 5 others in this OA.

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2. With the consent of both the learned counsel of the parties, the case was taken up for final hearing at the stage of admission since the controversy involved in this case is very short. I have accordingly heard the learned counsel and have carefully perused the pleadings and records of this case.

3. The material facts leading to filing of this Original Application indicates that it has been filed under the misconception. The applicants had worked as Casual labour under respondent No. 4. They filed an Original Application No. 36/2002 along with number of other applicants for claiming their reengagement. The same came to be decided vide order dt. 29.10.2002 and placed at Annexure A/1 where their claim has been held unsustainable for the reason that there was no engagement of the fresh casual labourers and it was a recruitment for the direct appointment against the regular vacancies. Permission was granted to them to agitate the matter in case their candidatures for direct recruitment were not considered. Therefore, the only controversy which remains to be adjudicated upon in this case is as to whether the candidature of the applicants have been considered for appointment to the Group D posts in pursuance with the Annexure A/3 or not.



4. While both the learned counsel for the parties have reiterated the facts and grounds mentioned in their respective pleadings, it has been submitted by the learned counsel for the respondents that the so-called applications said to have been

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submitted by the applicants have not been received in their office and that is precisely the reason for non-considering their candidatures. The learned counsel for the applicant has submitted that the applications were sent to the competent authority in pursuance with a notification and for that purposes he has submitted a copy of the UPC dt. 23.10.2001 at Annexure A/4. This UPC contains that some applications for the post of Mazdoor have been sent in 12 envelopes. The learned counsel for the applicant has confronted with a query as to whether these are the same applications which were sent by the applicants. He has submitted that the applications were sent through the Secretary of the Union. He has also not been able to show as to what were the contents of the applications sent to the Department. On the other hand the learned counsel for the respondents has submitted that even if it is assumed that they have sent their applications through the UPC that does not mean that the applications have reached the office of the respondents since UPC is only the proof to the effect that the envelopes were posted. Firstly, so-called UPC does not indicate that the applicants have at all sent any application. Secondly, UPC is not proof for service of the postal articles. He has also invited our attention to the specific averments made in the reply where it has been asserted by the respondents that they have not received the applications.

4. I have considered the rival submissions put forth on behalf of both the parties. I am not satisfied that the applicants have



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sent their applications to the respondents for appointment to the post of Mazdoor for twin reasons. Firstly the UPC does not indicate very specifically as to whether the envelopes sent contained the applications in respect of applicants only. Secondly the presumption could be that the envelopes were posted and reached the addressee in the normal course. But in the instant case, there is a specific denial that applications have not reached to the respondents. In this view of the matter, I have no reason to disbelieve the version of the respondents that applications have not been received by them. In this view of the matter, I am left with no option except to accept the defence version of the respondents. If that were so, the Original Application shall have to be construed as misconceived and misdirected and hence this Bench of the Tribunal could make no interference.



6. In the premises the Original application sans merits and stands dismissed with no order as to costs.

(J.K. Kaushik)
Judicial Member

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Part II and III destroyed
in my presence on 10.11.14
under the supervision of
section officer () as per
order dated 1.3.14/1.3

[Handwritten signature]
Section officer (Record)
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