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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH : JODHPUR

Date of Decision : 12.07.2002

O.A. No. 47/2001.

1. Praveen Kumar Saxena S/o Shri Om Kar Kishore Saxena, aged about 41 years, resident of 7-A/10, South Extension, Pavan Puri, Bikaner.
2. Ram Pratap Yadav S/o Shri Ram Swaroop Yadav, aged about 31 years, resident of Suraj Vihar, Gali No. 5, Ambedkar Colony, Purani Shiv Badi Road, Bikaner.
3. Shokat Ali S/o Shri Rustam Ali, aged about 41 years, Resident of Hindu Chhipon Ka Mohalla, Ganga Sahar Road, Bikaner.

All Applicants are working in DRM Office, N. Rly., Bikaner.

... APPLICANTS.

v e r s u s



1. Union of India through General Manager, Northern Railway Headquarters Office, Baroda House, New Delhi.
2. Divisional Railway Manager, Northern Railway, Bikaner.
3. Divisional Superintending Engineer, Northern Railway, D.R.M. Office, Bikaner.
4. Senior Divisional Personnel Officer, Northern Railway, D.R.M. Office, Bikaner.

... RESPONDENTS.

Shri N.K. Khandelwal counsel for the applicants.
Shri Kamal Dave, counsel for the respondents.

CORAM

Hon'ble Mr. Justice O. P. Garg, Vice Chairman.
Hon'ble Mr. Gopal Singh, Administrative Member.

: O R D E R :
(per Hon'ble Mr. Justice O. P. Garg)

Applicants who are three in number are working on ad hoc basis on the post of Chief Drafts-man, which is a selection post. A notice was served upon them to

discontinue their Ad hoc engagement. It is in these circumstances, that the applicants have rushed to this Tribunal under Section 19 of the Administrative Tribunals Act, 1985.

2. Heard Shri N. K. Khandelwal, Learned counsel for the applicants, as well as Shri Kamal Dave, Learned counsel for the respondents.

3. Shri N. K. Khandelwal, Learned counsel for the applicants, urged that though there were nine posts of Chief Draftsman, the respondent department advertised only six posts. The applicants qualified in the written examination but ultimately they did not find a place in the select list of the six candidates who were to be appointed against those advertised posts. The contention of Shri Khandelwal is that had nine posts been advertised, the applicants would have been selected for appointment against the regular posts. This submission has been repelled by Shri Kamal Dave, Learned counsel for the respondents. He pointed out that it is the discretion and choice of the department concerned to fill up all the vacancies or to keep certain posts unfilled. It was further pointed out that the applicants cannot force the department to fill up all the existing vacancies. We have considered this aspect of the matter and find that the applicants have no claim for regular appointment against the unadvertised posts. The department is at liberty to keep the posts vacant. As and when, the remaining posts are advertised the applicants if otherwise, qualified and eligible

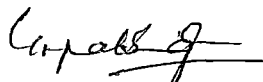


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would be at liberty to apply for consideration of their names according to rules.

4. Shri N. K. Khandelwal further pointed out that since three regular posts exist, the ad hoc appointment of the applicants should not be discontinued. This aspect of the matter is to be considered by the respondent department after taking into consideration the representation or replies, if any, to the show cause notice served upon the applicants. The applicants, in short, have come before this Tribunal against a notice of proposed discontinuance of their ad hoc appointment. Lest some observations may go against the applicants, which may damage their case, we refrain from taking up the merits of the case. The proper remedy of the applicants is to canvass their grievance before the departmental authority by submitting their replies to the proposed notice of discontinuance of their ad hoc appointment.

5. The OA is premature and is not maintainable at this stage. It is accordingly dismissed without any order as to costs.


(GOPAL SINGH)
MEMBER (A)


(JUSTICE O. P. GARG)
VICE CHAIRMAN



Part II and III destroyed
in my presence on 24.7.07
under the supervision of
section officer (1) as per
order dated 14.7.07

Section officer (Record)

Received on
15/7

R/c

NA
16/7