के.प्र.अ. (प्रक्रिया) नियमावली के नियम 22 के अन्तर्गत निःशुल्क प्रति

I/7

CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH: JODHPUR

O.A.Nos. 53, 54, 218, 219 & 220/2002.

M.A.Nos.27,28, 104,105 & 106/2002

Date of Decision. 11.03.03

1. Kishan Singh,
S/o Shri Prithvi Singh,
R/o Village Bikasi, PO Asal Kheri
Dist. Churu.

2. Sumer Singh Rathore,
S/o Shri Baldev Singh,
New Sarak, Naya Bas,
Ward No. 13, CHURU

3. Daulat Singh, S/o Shri Heer Singh,
C/o Shri Ranjeet Singh Shekhawat, Aguna
Mohalla, Ward No. 28, Churu.

:Applicants in O.A. No. 53/2003.
M.A. No.27/2002. [27/2002]

1. Bajrang Singh,
S/o Shri Madho Singh
R/o V & PO Payali,
Tehsil Ratangarh,

2. Hakam Ali, S/o Shri Yaseen
C/o Shri Yaseen, Trollyman,
Northern Railway, Ratangarh.

3.Rajendra Singh, S/o Shri Mohan Singh,
R/o Haridas Ki Dhani,
Ward No. 25, Ratangarh.

4.Nandlal, S/o Shri Puri Ram,
R/o Haridas Ki Dhani,
Ward No. 25, Ratangarh.

:Applicants in O.A. No.54/2002.
& M.A. No. 28/2002

Inder Singh, S/o Shri Bhoor Singh,
R/o Ward No. 12, Mohalla Aguna
Taknet House,
Churu.

:Applicant in O.A. No.218/2002.
& M.A. No.104/2002.

Ramesh Kumar Sharma,
S/o Shri Brijlal Sharma,
r/o Shri M.D. Sharma,
Near Chakla Bhawan,
No.12, Mahdeo Ward No. 36
CHURU. : Applicant in O.A. No. 219/2002.
& M.A. No.105/2002

Rajendra Singh,
S/o Shri Nandlal
R/o, C/o Shri Om Singh,
Qr. No. T-26-B, Railway Colony,
CHURU. : Applicant in O.A. No. 220/2002.
& M.A.No.106/2002.

rep. by Mr. Y.K.Sharma, : Counsel for the applicants.

1. Union of India through the
General Manager, Northern Railway, H.Q.
Office, Baroda House, New Delhi. ;R.1 in all the applications.

2. Divisional Railway Manager,
Northern Railway,
Bikaner Division, BIKANER. :R.2 in all the applications.

3. Divisional Personnel Officer,
Northern Railway,
Bikaner Division,
BIKANER : R.3 in O.A. No. 53 & 54/2002.

rep. Mr. Manoj Bhandari: Counsel for the respondents.

CORAM: The Hon'ble Mr.Justice G.L.Gupta, Vice Chairman.

ORDER

Per Mr. Justice G.L.Gupta:

Common questions of law and facts have arisen in all the above mentioned five cases. Therefore they have been heard together and are being disposed of by this common order.

2. The case for the ten applicants is that they had been engaged as casual labour in the Co-operative Societies, Nortern Railway at Ratangarh and Churu. The applicants of O.A. Nos 218, 219 and 220/2002, were engaged in 1995. In the case of the applicants in O.A. Nos. 53/2002 and 54/2002 the year of engagement has not been stated. It is averred that the Co-operative Societies are quasi administrative offices/organisations of the Northern Railway and therefore the applicants are entitled to be considered for regular absorption and appointment in Class IV along with casual labourer/substitutes in terms of the Railway Board's order dated 26.8.77. The further case for the applicants is that they were screened in the years 1994-1995 and 1996 but the result of the screening test has not been declared as yet. It is stated that the applicants made representations to the respondents between August 2000 and May 2001, but their grievance has not been redressed. It is prayed that the respondents be directed to treat the applicants as eligible for screening test and to consider them for regularisation in Group 'D' posts in the Railways. In the alternative, it is prayed, the responents be directed to place the applicants names in the live register.

M.As have been filed for condonation of delay.

3. In the counter the respondents have resisted the claim of the applicants on the main ground that all these applications have been filed after the expiry of the period of limitation. It is averred that the

alleged screening test had taken place in the years 1994 -1995 and 1996 and the applicants did not approach this Court in time and therefore they cannot succeed. It is stated that the employees of Cooperative Societies are not employees of Railways and therefore they cannot be regularised in the Railway services. It is the further case for the respondents that two persons Rajendra Singh(applicant in O.A. No. 220/2002) and Nandlal (applicant No. 4 in O.A. No. 54/2002) only had been called for screening test but they were not found fit and therefore they are also not eligible to be considered for regularisation.

Reply to the M.As have been filed.

4. In the rejoinder filed in O.A. No. 54/2002, the applicants have relied on the Railway Board order dated 11.3.2002, which provides for regularisation of the employees of quasi administrative offices.

5. Heard the learned counsel for the parties and perused the documents placed on record.

6. It is admitted position that at the time of filing these applications, the applicants were not in the employment of the Cooperative Societies. It is further not in dispute that the applicants were not in employment of the Society after 1996. It seems that the applicants made representations for the screening test and regularisation for the first time in 2000 and 2001. In these circumstances it has to be accepted that if any cause of action had arisen to the applicants, it was in the years 1994- 1995 and 1996. The representations were made by the applicants 5 years after the alleged screening test. Representations, obviously were not made within the period of limitation. Representations made after the period of limitation cannot extend the period of limitation for filing the Original Applications. Therefore the applications filed in 2002 are liable to be dismissed on this ground alone.

7. In the MAs for condonation of delay no cause has been shown . It has only been stated that final decision has been taken by the respondents in the PNM meeting held on 31.5.2000/1.6.2000

When the applicants did not make any representation before the PNM meeting, how can they claim limitation from the decision taken in the PNM meeting. According to the averments in the O.A., the applicants had been screened in 1994-95 & 1996. If the result of the screening was not declared they could approach the Tribunal after waiting for a reasonable period. They kept mum till 2001. Even representation was not made within the period of limitation. No cause, whatsoever has been shown for not approaching the Tribunal in time. The applications for condonation of delay are therefore liable to be rejected.

8. Apart from that, the applicants have not impleaded the Cooperative Societies concerned as respondents. It is not known as to what was the period of working of the applicants with the Cooperative Societies and whether they were entitled to be considered for absorption in terms of the Railway Board's order dated 26.8.77, in Group 'D' posts.

9. Even on assuming that the applicants were entitled to be considered for their absorption in Group 'D'posts in terms of the Railway Board's order dated 26.8.77, the applicants cannot succeed in these applications. The reason is not far to seek. The Railway Board vide order dated 11.6.97, has superseded the instructions dated 26.8.77. In the letter dated 11.6.97,(Annex. R.1) the Railway Board has stated that staff working in the quasi administrataive offices or organisations connected with Railways would henceforth have to compete along with other eligible candidates for recruitment to the Railway Service as and when notifications for recruitment to posts suiting their qualifications are issued by the

Railways. It was, however, provided that the staff of the quasi administrative organisations would be entitled to age concessions upto 5 years.

10. It is manifest that after the Railway Board's letter 11.6.97, there could not be absorption of the employees of the Cooperative Societies in terms of the Railway Board's letter dated 26.8.77. Then in the PNM meeting with the Employees Union at the G.M. level held on 5/6.2.98, it was agreed that casual labourer of Cooperative Societies could not be considered for regularisation in Group 'D' posts as they had not been identified as railway employees in terms of instructions issued under PS 11426 and they have to appear in the selection for their regularisation as and when notification is issued.

It may be pointed out that the position was further made clear in the Circular letter dated 11.3.2002, filed by applicants along with the rejoinder. It provides that the staff working in the quasi administrative offices /organisations connected with the Railways will have to compete along with other eligible candidates for recruitment to the Railway service as and when notifications for recruitment to Group 'D' posts are issued by the Railways. The letter further says that as a one time measure, the Railway Board would consider absorption of those staff of quasi administrative offices/organisation who were on roll continuously for a period of at least three years as on 10.6.97 and are still on roll subject to fulfilment of prescribed educational qualification.

12. Admittedly, the applicants were not on roll as on 10.6.97. They were certainly not on roll as on 19.3.2002 when this circular letter was issued. Therefore, the applicants cannot claim relgularisation on the basis of the Railway Board's Circular Annex. A.3 dated 19.3.2002.

13. No other point was argued before me.

14. For the reasons stated above, the applicants are not entitled to succeed in these applications and they are liable to be dismissed.

15. Accordingly, the O.As are dismissed. The M.As are also dismissed.

16.. No order as to costs.

(G.L.Gupta)

Vice Chairman.

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Part II and III destroyed
In my presence on 22.6.08
under the supervision of
section officer vide as per
order dated 5.12.06

Section officer (Record)