

**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH; JODHPUR**

ORIGINAL APPLICATION NO. 101/2006

Date of order: 16.04.2010

CORAM:

**HON'BLE MR. JUSTICE S.M.M. ALAM, JUDICIAL MEMBER
HON'BLE MR. V.K. KAPOOR, ADMINISTRATIVE MEMBER**

Gordhan son of Sh. Lal Chand, aged 26 years, GDS MM, T.M.O.
Sadulpur, District Churu, R/o Badi Jasolai, ward No. 52, Bikaner.

...Applicant.

Mr. Vijay Mehta , counsel for applicant.

VERSUS

1. Union of India through the Secretary to the Government, Ministry of Communication, (Dept. of Post) Sanchar Bhawan, New Delhi.
2. Superintendent, Railway Mail Service, ST Division, Jodhpur.

... Respondents.

Mr. Vipul Singhvi proxy counsel for Mr. Vinit Mathur, counsel for respondents.

ORDER

Per Hon'ble Mr. Justice S.M.M. Alam, (JM)

1. This Original Application has been preferred by one Gordhan presently working as GDS MM, TMO Sadulpur, District Churu for grant of relief to the effect that the respondents be directed to declare the result of the applicant and in pursuant to



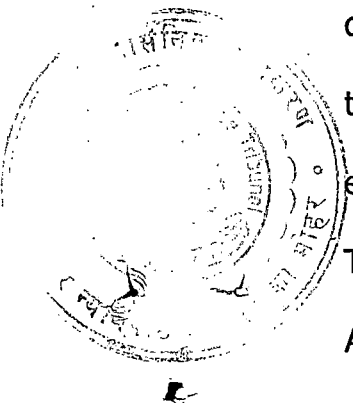
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the result they may be further directed to promote the applicant on the post of Mail Guard w.e.f the date others have been promoted pursuant to the examination held after 19.6.2005 with all consequential benefits.

The brief facts of the case are as follows:

2. The applicant is presently working as GDS MM Tamo Sadulpur under respondent department. In the year 2005, the respondent no.2 invited applications to fill up the vacant post of Mail Guard in Group-'D' from GDS. The applicant fill^{ed} up the application and he being eligible was permitted to appear in the examination for the post of Group-'D' which was scheduled to be held on 3.4.2005. However, the said examination was held on 19.6.2005 in which the applicant appeared. The respondents did not publish the result of the said examination and instead of that the respondent no.2 invited fresh applications to sit in the examination for the post of Mail Guard and Sorting Assistant. The applicant submitted representation on 3.4.2006 (Annexure A-5), requesting the respondents to declare the result of the examination held on 19.6.2005. But in spite of the representation the respondents did not declare the result and so necessity of filing of this O.A. arose.

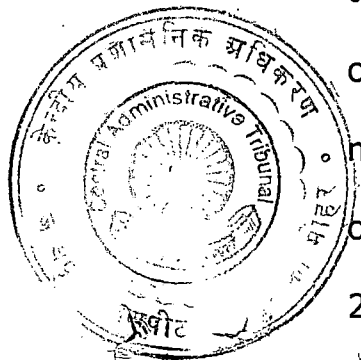
3. On filing of the application, notices were issued to the respondents and in compliance of the notice the respondents appeared through their Advocate and have filed reply to the O.A.



4. The respondents contested ⁻³⁻ the claim of the applicant mainly on the two grounds; firstly that in the year 2003, there was no vacancy for outsider candidates and the applicant was outsider; and secondly for outsider candidate the examination was held in the year 2005 in which the applicant did not appear.

5. Heard the learned Advocates appearing for both the sides at length and gone through the material on record.

6. During the course of arguments the learned Advocate of the applicant had drawn our attention to the effect that the applicant was already working on the post of GDS MM TMO Sadulpur and as such he cannot be said to be outsider. He further submitted that Annexure R-1 which is the document of the respondents themselves while establishing this fact that the contention of the respondents that in the year 2003 there was no vacancy from departmental quota is not correct as Annexure one of R-1 will show that in the year 2003, there was altogether 25 vacancies from departmental quota. The learned Advocate submitted that these documents falsify the plea of the respondents that since there was no vacancy from departmental quota in the year 2003 and the applicant was outsider as such his result was not published. He further submitted that Annexure A-1 of the application will show that the respondents have granted permission to the applicant to appear in the examination for promotion to Group-D post to the cadre of Mail Guard and the applicant after obtaining due permission from the authorities had appeared in the examination which was held on 19.6.2005



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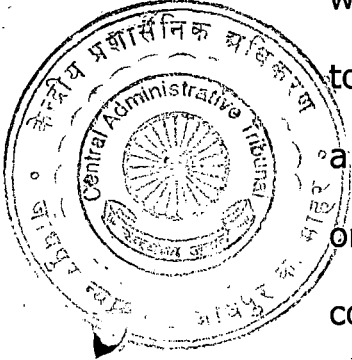
so it was unjust and improper for the respondents to withhold the result.

7. We have gone through the O.A. as well as the reply filed on behalf of the respondents and also perused the documents attached with the application as well as with the reply. From the perusal of Annexure A-1 annexed with the O.A., we are satisfied that the applicant was duly granted permission by the respondents to appear in the examination for promotion to Group-D and GDS to the cadre of Mail Guard which was scheduled to be held on 2.4.2005. Admittedly the said examination was held on 19.6.2005 in which the applicant appeared. The grievance of the applicant is that the result of the said examination ^{was} not published as a result of which the applicant could not be promoted. It is not denied by the respondents that the result of the said examination is yet to be published. Rather it is said that there was no necessity to publish the result of the applicant as the applicant was outsider and at the relevant period, no vacancy was available for outsider. We have stated above that the applicant is not outsider and he had appeared in the examination with the permission of the authorities so his grievance for non publishing of his result appears to be genuine one. In such view of the matter, we are of the opinion that at this stage, it would be sufficient to issue a direction to the respondents to publish the result of the examination held on 19.6.2005.



for

8. In the result, this Original Application is partly allowed only with respect to the claim of the applicant for issuing direction to the respondents to publish the result of the examination which was held on 19.6.2005. Accordingly the respondents are directed to publish the result of the examination held on 19.6.2005 within a period of 3 months from the date of receipt of copy of this order. However, it is observed that the respondents may consider grant of other relief to the applicant if the applicant is declared successful in the said examination. In the facts and circumstances of the case, there will be no order as to costs.




(V.K. KAPOOR)
ADMINISTRATIVE MEMBER


(JUSTICE S.M.M. ALAM)
JUDICIAL MEMBER

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Reply
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