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CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR

OA No. 259/2009 with MA 176/2009
Jodhpur this the 18th day of October, 2013.

CORAM

**Hon'ble Mr. Justice Kailash Chandra Joshi, Member (J) and
Hon'ble Ms. Meenakshi Hooja, Member (A)**

Tara Chand S/o Sh. Faifa Ram aged 32 years, R/o Vill. Baimoth, PO Kharia, Tehsil Deedwana, Distt. Nagaur – working as Collie under Station Supdt. N.W. Railway of Bikaner.

.....Applicant

(None present)

Versus

1. The Union of India through the General Manager, North Western Railway Hd. Qtrs. Office, Jaipur.
2. The Divisional Railway Manager, North-Western Railway, Bikaner.
3. The Sr. Divisional Personnel Officer, North Western Railway, Bikaner.
4. The Sr. Divisional Commercial Manager, North Western Railway, Bikaner.

(Through Adv. Mr Vinay Jain)

..... Respondents

ORDER (Oral)

Per Justice Kailash Chandra Joshi, Member (J)

None is present on behalf of the applicant. On earlier occasions dated 26.07.2013 and 03.10.2013 none was present on behalf of the applicant and on some earlier dates also none was present and on some date Mr Mohan Lal proxy counsel was present for Mr Nitin Trivedi, counsel on behalf of the applicant.

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2. It appears from regular absence that the applicant is not interested to pursue the matter but instead of deciding the matter on mere technical grounds we are deciding this matter finally on merits after hearing counsel for the respondents and considering the material available on record.

3. The applicant has also filed MA No. 176/2009 for condonation of delay. We allow the MA for advancing the cause of justice for the reasons stated in MA itself by the applicant.

4. The short controversy involved in this case as averred by the applicant is that the applicant is a licensed porter (coolie) holding license No. 12 working under station Supdt. NW Railway Bikaner since December, 2001 and was engaged by Railway authorities to work as Coolie in place of his father named Sh. Faifa Ram who died in the year 1999. The Ministry of Railways announced a scheme to absorb the coolies in Railway Service in Group 'D' category subject to fulfillment of certain terms & conditions given in letter dated 01.04.2008 (Annex. A/1-a). The applicant fulfilled all the requisite terms & conditions and was eligible in all respect but the respondent No. 2 had declined to absorb him in Railway Service in Group 'D' category vide letter dated 18.06.2008 (Annex. A/1). The applicant's contention is that being licensed porter he should have been absorbed in Railway Service in

pursuance to letter dated 01.04.2008 issued by Ministry of Railways, GOI.

5. The respondents by way of counter have averred that under this scheme persons who were holding a valid license as on 26.02.2008 were eligible to be absorbed in Railway Service of Group 'D' category post and on the relevant date the applicant was not having a valid license because on that day he was abroad out of India and his license was not duly renewed upto that date. Therefore, he is not entitled to get any regular absorption in pursuance to the letter dated 01.04.2008 issued by Ministry of Railways, GOI.

6. As per the averments made in the OA itself it is clear that the applicant was not in India on the relevant date and he deposited license fee for renewal on 03.03.2008 and his license was not renewed after crucial date i.e. 26.02.2008 as such he was not having valid license on that day.

7. We have perused the documents available on record. The applicant was not having valid license as on 26.02.2008 and the scheme announced by the Ministry of Railways, GOI vide letter dated 01.04.2008 was one time scheme and on the relevant date the applicant was not valid license holder for the Porter (Coolie). He filed detailed representation and it was considered thoroughly by

the competent authority and was dismissed vide letter dated 18.06.2008.

8. We have considered the entire matter on merits and in our considered view there is no reason to interfere in the order Annex. A/1 because the applicant himself has averred that on the relevant date i.e. 26.02.2008 he was not holding the valid license for Porter (Coolie); whatever may be the reasons for non-renewal of the license but it is a hard fact that on that crucial date he was not a valid license holder. Therefore, in our considered view, the applicant is not entitled to be considered for absorption on regular Group 'D' post in the Railways.

9. Accordingly, OA lacks merit and the same is dismissed. There shall be no order as to costs.


(MEENAKSHI HOOJA)
ADMINISTRATIVE MEMBER


(JUSTICE K.C. JOSHI)
JUDICIAL MEMBER

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