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**CENTRAL ADMINISTRATIVE TRIBUNAL,
JODHPUR BENCH, JODHPUR**

ORIGINAL APPLICATION NO.50/2009

Date of Order: 11.08.2010

HON'BLE Dr. K.B. SURESH, JUDICIAL MEMBER
HON'BLE Mr. V.K. KAPOOR, ADMINISTRATIVE MEMBER

Pravesh Kumar Sharma S/o Shri Nawal Kishore Sharma, C/o
Jawari Lal, Quarter No.T-84-A, Railway Nai Loko, Ratanada
Subhash Chowk, Jodhpur (Rajasthan).

....Applicant

Mr. Sanjiv Sharma, counsel for applicant.

VERSUS

1. Union of India through General Manager, North/West Railway, Jaipur (Raj.).
2. The Divisional Railway Manager, North/West Railway, Jodhpur Division, Jodhpur (Raj.).
3. The Assistant Personnel Officer, North/West Railway, Jodhpur Division, Jodhpur (Raj.).
4. The Senior Divisional (Personnel Commercial) Officer, North/West Railway, Jodhpur Division, Jodhpur (Raj.).
5. The A.D.M., North/West Railway, Jodhpur Division, Jodhpur (Raj.).

.....Respondents

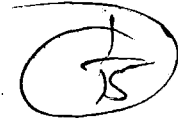
Mr. Manoj Bhandari, counsel for respondents.

ORDER (ORAL)
(Per Hon'ble Dr. K.B. Suresh, Judicial Member)

The applicant had applied for the post of Porter/Coolie in the year 2005 but it appears that there was a lacunae in the application in that he has not submitted a character certificate issued by the local police authority. Therefore, Divisional Railway Manager, Jodhpur vide Annexure-A/4 invited the applicant's attention to it and directed him to produce the character certificate by 15.10.2005. It appears that vide Annexure-A/5 on 12.10.2005 the applicant submitted such a

[Signature]





certificate. It is represented that thereafter, even though he enquired regularly to the concerned railway clerk, he could not obtain any reply relating to this. Finally, he came to know about the selection held in the year 2005 only through Right to Information Act application. Immediately, thereafter he approached to Court for redressal of his grievances. The Railway objects to the jurisdiction of the Tribunal on the ground that a Porter/Coolie is not a civil post and therefore, not maintainable before this Tribunal. They would say that a Porter cannot be considered as Railway servant as he is only issued a license to work as Coolie and he is getting payment from the passengers themselves. The respondents would further say that the concerned appointment had been completed in the year 2005 but details about transparency of the selection are not available. The reason of rejection of his application was the non production of character certificate issued by the Police at the time of submitting the application. Since these matters have gone through much earlier, we do not propose to reopen it once again.



2. We take note of the fact that Porter is also feeder category for appointment as Gangmem and they are accorded medical facilities by the Railway, their appointment, continuance in service, the fee they collect and every aspect of their engagement is controlled by the Railways. So the applicant can approach a Tribunal for redressal of his grievance and he is not to be treated as an outsider.

3. The next objection raised by the Railways is that the applicant had forgotten to put the signature in the application

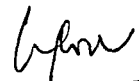
form and, therefore, it was not considered. The applicant in his rejoinder denies this and points-out that this has been disproved by the Annexure-A/4 letter of DRM Jodhpur. But the fact remains that the applicant was available for selection and the objection raised by the DRM related to the non-production of the character certificate of the local police alone, which was also done within the allotted time. He would also submit that even now posts of Porter/Coolie are lying vacant and in the year 2008 also such an opportunity arose and he applied. On the ground of overage his application was rejected. But he would submit that there is no valid and cogent ground to reject the applicant's case.

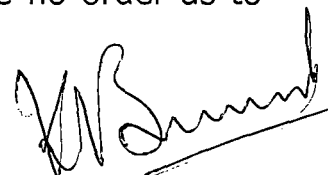
4. After having heard the matter in detail and gone through the pleadings, we are of the opinion that proper opportunity was not given to the applicant and the right to selection which is mandate of constitution of India as grounds of equality was denied. Therefore, this Original Application is allowed with following directions:-



- (a) The applicant shall be considered on the basis of his application in the year 2005 for appointment as Porter/Coolie within three months next of receiving copy of this judgment;
- (b) If found satisfactory/suitable he shall be appointed with notional benefits from the year 2005 if at all any;

In view of the discussion made above, the present Original Application is allowed as above and there will be no order as to costs.


(V.K. KAPOOR)
Administrative Member


(Dr. K.B. SURESH)
Judicial Member