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CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR

O.A. No. 93/2010

Jodhpur this the 27th day of February, 2013.

CORAM

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

Karan Singh S/o Shri Shankar Lal
R/o Imaliwala Hanuman ji, Naya Bazar
Kankroli, District - Rajsamand

.....Applicants

(Through Advocate Mr. Vijay Mehta)

Versus

1. Union of India through the Secretary, Ministry of
Communication (Department of Post), Sanchar Bhawan,
New Delhi
2. Head Post Master, head Post Office, Kankroli, District
Rajsamand
3. Senior Superintendent of Post Offices, Udaipur

(Through Advocate Mr Vinit Mathur)

.....Respondents

ORDER (Oral)

Per Justice Kailash Chandra Joshi, Member (J)

By way of this application, applicant has sought following
relief (s) :

*"The applicant prays that impugned orders ANN A 1 and
ANN A 2 and action of the respondent No. 2 whereby he has
arbitrarily terminated the services of the applicant may kindly
be quashed and the respondents may kindly be directed to
reinstate the applicant with all consequential benefits. The
applicant was always prepared to discharge his duties but the
respondents illegally deprived him so to do and have rendered
him unemployed. Any other order, as deemed fit giving relief*

to the applicant may kindly be passed. Costs may also be awarded to the applicant."

2. The case of the applicant in short is that he filed OA before this Tribunal bearing No. 170/2001 which was decided by this Tribunal vide order dated 16.09.2002. The applicant is continuously working on the post of Chowkidar since his appointment on 01.04.1988. The respondent No. 2 vide his order dated 21.10.2008 terminated the services of the applicant w.e.f. 20.10.2008 [A/1], which was decided by order of this Tribunal dated 09.09.2008 passed in OA 226/2008 and Annex.-1 was quashed. The respondents filed writ petition challenging the order dated 09.09.2008 of this Tribunal and the Hon'ble Rajasthan High Court directed the respondents that they shall give an opportunity of hearing by way of issuing notice to the applicant to ascertain his correct date of birth and after considering all relevant documents which are on the record or which may be filed by the applicant. The Hon'ble High Court directed the applicant to file the reply and proper relevant documents for ascertaining the correct Date of Birth (DOB). After decision of the Hon'ble High Court the respondents served a notice dated 17.03.2010 and its reply had been filed by the applicant by way of Annex.-3 submitting his correct DOB as 12.04.1951 and in support of his reply he annexed Janmpatri and copy of the orders passed in OA 226/2008, 170/2001 and 60/2003 in which the age of the applicant was mentioned as 58, 50 and 51 years respectively. The respondents without considering the facts mentioned in the reply passed the order Annex.-2 and held that the correct DOB of the applicant is 28.04.1947 on the basis of alleged

Transfer Certificate (TC) issued by Shramjivi Secondary School, Kankroli.

3. The applicant averred that he never filed any declaration or TC issued by Shramjivi Secondary School, Kankroli. He further averred that these documents have not been referred in the notice issued to him. Therefore, he sought the relief(s) narrated in Para 1.

4. By way of reply the respondents denied the facts as averred in the OA and further pleaded that the DOB has been determined as per his own declaration and TC issued by Shramjivi Secondary School, Kankroli submitted by him.

5. We have heard both the counsels. Counsel for the applicant contended that in notice Annex.-5 he has not been provided the copy of the declaration or TC issued by Shramjivi Secondary School, Kankroli and these documents have been considered by the respondents without giving any opportunity to explain the circumstances because neither he has submitted any declaration nor any TC.

6. The counsel for the respondent while defending the order dated 03.04.2010 [A/2] contended that these are the documents submitted earlier by the applicant himself, therefore, there was no need to supply the copy of the same to the applicant.

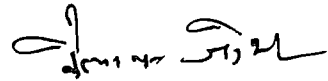
7. We have considered the rival contentions raised by both the counsels. It is admitted fact that Annex.-5 does not contain reference of any declaration or TC issued by Shramjivi Secondary School, Kankroli submitted by the applicant and he could not make the effective representation against these two documents, therefore,

we are proposing to dispose off this OA with direction to the respondent to issue fresh notice to the applicant referring both the documents or any other relevant document with them so that the applicant can file effective explanation/representation against the notice issued by the respondents.

8. In view of the discussions hereinabove, the OA is disposed off with a direction that respondents shall issue a fresh notice to the applicant referring all documents pertaining to the DOB alongwith copy of all such documents and ascertain the correct DOB of the applicant within 4 months of the receipt of the order.



(MEENAKSHI HOOJA)
ADMINISTRATIVE MEMBER



(JUSTICE K.C. JOSHI)
JUDICIAL MEMBER

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