

Reserved

CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH, LUCKNOW

Original Application No.35/2012
This the 25th day of January 2012

Hon'ble Mr. Justice Alok Kumar Singh, Member (J)
Hon'ble Mr. S.P. Singh, Member (A)

Sudhir Pathak aged about 38 years son of Sri S.M. Pathak resident of village Srinathpur post Sarain Mahesh (Patti) District Pratapgarh.

...Applicant.

By Advocate: Sri S.K. Mishra.

Versus.

1. Union of India through its Secretary, Ministry of Railways Baroda House, New Delhi.
2. General Manager (P) Central Railway Bombay (V.T.).
3. Divisional Railway Manager (P) Central Railway Divisional Office Bhopal (Madhey Pradesh).

.... Respondents.

By Advocate: Sri Rajendra Singh.

Order reserved on 23.01.2012

ORDER

By Hon'ble Mr. Justice Alok Kumar Singh, Member (J)

This O.A. has been filed for quashing the impugned order/ letter dated 16.02.2011 (Annexure-1) and issuance of appointment letter in pursuance of selection list dated 30.04.1991 (Annexure-3).

2. The case of the applicant is that he succeeded in the written examination held on 13.01.1991 for the post of T.C.M.

AS

Grade-III. He also faced the interview and his name was in the list of succeeded candidates, which was pasted on the Notice Board on 01.05.1991. But, the respondents did not issue any appointment letter deliberately. On 16.01.2012, it was informed by opposite party no.3 that applicant was wrongly appointed under pressure on compassionate appointment of his father. His further case is that he filed an O.A.No.503/1994, which was dismissed on 21.07.1997, without looking into the fact that his appointment was illegally cancelled. He therefore preferred a Writ Petition No.36/1998 (S.B.) before the Hon'ble High Court and also made a representation dated 12.03.2002 to the respondents. When no reply could be received then he sought information under Right to Information Act by letter dated 11.06.2010 and 22.07.2010. He was informed that no letter dated 12.03.2002 was received. Therefore, he again sent reminders with the said representation to the opposite parties on 17.10.2010. Again no reply was received. Then he sought information under Right to Information Act and vide letter dated 16.02.2011, he has been informed that his roll number does not find place in the select list.

3. The first relief for quashing of the order / letter dated 16.02.2011 is misconceived because, it is only a letter furnishing the information sought vide letter dated 11.01.2011 under Right to Information Act, 2005. Information furnished under Right to Information Act by means of any letter cannot be construed to be an "order" described under the Administrative Tribunal Act. Therefore, it cannot be subject matter of O.A. and no relief can be given in favour of the applicant.

4. The second relief is for issuance of appointment letter in pursuance of selection list dated 30.04.1991. Firstly, the said

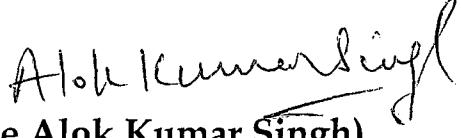
AK

selection list is said to be of the year 1991 whereas, this O.A. has been filed after an inordinate delay of about 20 years i.e. 2 decades and there is no satisfactory explanation. Even there is no application seeking condonation of delay. Therefore, this O.A. also deserves to be dismissed being highly barred by limitation under the Administrative Tribunal Act, 1985.

5. It is also worthwhile to mention here that from the perusal of the judgment/order passed on 21.07.1997 in O.A.No.503/1994 filed earlier by the applicant before this Tribunal, it appears that this O.A. was dismissed on the ground that the applicant's father had taken voluntary retirement on his own in the year 1991 and was paid all the retrial benefits in January, 1992. The ground for taking voluntary retirement was illness of his wife. Therefore, the applicant has no claim for consideration of appointment on compassionate ground. This earlier O.A. does not speak about any alleged selection held in 1990. It also does not appear that the applicant went for any judicial review or appeal against this order. Simultaneously, it appears that he did file a Writ Petition No.36 in the year 1998. But for the reasons best known to him after 12-13 years, he got this writ petition dismissed on 08.12.2011 as withdrawn (Annexure-9). But, no permission has been granted by Hon'ble High Court to file any O.A. in respect of the matter in question. In the absence of any copy of the writ petition, it is also not ascertainable as to what where its contents.

6. In view of the above, this O.A. is finally dismissed. No order as to costs.


(S.P. Singh)
Member (A)


Justice Alok Kumar Singh
Member (J)
25.1.12