

CENTRAL ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH, MUMBAI

CAMP : AURANGABAD

OA.NO.594/2001

Dated this the 9th day of August 2004.

CORAM : Hon'ble Shri Anand Kumar Bhatt, Member (A)
Hon'ble Shri S.G.Deshmukh, Member (J)

Vijaykumar Manoharrao Bhalerao,
Postal Assistant, Post Office,
Kalamnuri.

...Applicant

By Advocate Shri A.D.Sugdare

vs.

1. The Chief Postmaster General,
G.P.O., Mumbai.
2. The Postmaster General,
Aurangabad Division,
Aurangabad.
3. The Superintendent of
Post Office,
Nanded Division,
Nanded.
4. The Directorate of Social
Welfare, Maharashtra State,
Pune.

... Respondents

By Advocate Smt.H.P.Shah

ORDER : ORAL

(Per : Shri Anand Kumar Bhatt, M (A)

The applicant has been working as a Postal Assistant in the Office of Respondent No.3 at post office Kalamnuri, Dist. Hingoli for more than 19 years at the time of application. The applicant applied for the post of Warden in the Social Welfare Department of State Government of Maharashtra and he was selected.

However, the Respondent No.3 ~~did~~ not issue no objection certificate and refused to relieve the applicant to join his duty. Meanwhile, as his name was not entered in the register maintained in the office of the Collector, Parbhani, his appointment was cancelled. The applicant challenged this action in Maharashtra Administrative Tribunal (for short MAT) in OA.No.909/92 and the said OA. was decided in favour of the applicant on 25.9.1998. Appointment order was issued by the State Government on 27.9.1999. On the request made by the applicant to relieve him, the respondents informed him that ^{as} the applicant had not informed the department, he cannot be relieved.

2. The grounds stated by the applicant are that the applicant had applied ^{through} to the department as is clear from the letter dated 30.7.1990 by Up Dak Pal addressed to SSPO whereby the applicant's application for the said post had been forwarded.

3. In the oral submission Shri A.D.Sugdare for the applicant reiterated the pleadings.

4. In the reply submitted by the respondents in response to the M.P. for restoration of applicant's OA., which was dismissed for default and later restored as well as the oral submissions made by Smt.H.P.Shah, it has been stated that ^{when} the applicant's request dated 18.10.1999 was received through the Sub-Postmaster, Kalamnuri, it was noticed that the applicant had not submitted his application through this office and

therefore his claim for relief under the provisions of Rule 16 of P & T Manual Vol. VI Part I cannot be entertained. As his application was not through proper channel, the question of his release does not arise. Therefore, the applicant had been advised to first resign from this department and then join his new assignment. Also the application is highly time barred and there is no application for condonation of delay.


5. In the rebuttal, Shri Sugdare stated that the applicant came to the Tribunal after MAT ^{gave} ~~giving~~ verdict in his favour and the application is not time barred.


6. We have considered the case. The applicant applied for the post in 1990. He was selected and later his appointment was cancelled for which he gone to MAT where his application was allowed on 25.9.1998. The appointment order was issued by the State Government on 27.9.1999. The applicant is still continuing in the Department of Posts and we are not very sure whether the offer of appointment is still open with the State Government.

7. However, so far as the action of the respondents is concerned, we find that if at all any infringement or violation has been done by the respondents, it is very minor and it should be condoned and the applicant should not be deprived of appointment in the State Government and the benefit of service he has put-in in the Department of Posts. The applicant did submit the application for the post to the Sub Postmaster, Kalamnuri which was forwarded to SPO on 14.2.1991 by Sub Postmaster, Kalamnuri. It is not known why the

N.O.C. was not issued to the applicant at that time as his request for relief was turned down vide the letter of Respondents dated 14.2.2000 (Ex.A-1).

8. However, in view of what we have mentioned about our doubt for the offer ^{being} ~~is~~ still open, the applicant may ascertain within a month from the date of receipt of this order whether the offer is still open with the State Government, and in that case, he may request for relief to his present department and he shall be relieved by Respondents No.1 to 3 within a month of such application with benefit of continuity of service as prayed for. OA. is allowed as above. Costs easy.


(S.G.DESHMUKH)
MEMBER (J)


(ANAND KUMAR BHATT)
MEMBER (A)

mrj.