

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, *N*<sup>2</sup>  
JAIPUR BENCH,  
JAIPUR.

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Date of Decision: 28/5/93

OA 889/92

CHET RAM PANDEY

... APPLICANT.

Vs.

UNION OF INDIA & ORS.

... RESPONDENTS.

CORAM:

HON. MR. GOPAL KRISHNA, JUDICIAL MEMBER.

HON. MR. O.P. SHARMA, ADMINISTRATIVE MEMBER.

For the Applicant

... SHRI ASHOK BANSAL.

For the Respondents

... SHRI U.D. SHARMA.

J U D G E M E N T

(DELIVERED BY HON. MR. O.P. SHARMA, ADMINISTRATIVE MEMBER)

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The applicant has been working as an Extra Departmental Branch Post Master (EDBPM), and is now posted in the Village Itamada. He appeared for examination for promotion to the post of ~~Post~~ Postman as he fulfilled the requisite conditions, and was declared successful. Due to non-availability of post in the Bharatpur Division, he was asked whether he was willing to be posted in Jaipur City Division, as a Postman. The applicant gave his consent for being posted as a Postman in Jaipur City Division. No appointment was however given to the applicant. He was informed by Respondent No.3, by letter dated 20.11.91, that the earlier communication dated 19.11.91, addressed to the applicant seeking his consent for posting in Jaipur City Division, may be treated as cancelled. The applicant is aggrieved by the

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respondents' action, not appointing him even though he had been declared successful in the examination held for Postman and his consent had specifically been asked for for being appointed in the Jaipur City Division. The applicant has pleaded that appointment to the post of Postman may be given to him and all other consequential benefits may also be granted to him.

2. We have heard the learned counsel for the applicant and the respondents. The learned counsel for the applicant has produced before us a copy of the decision of this Bench of the Tribunal in Pati Ram Vs. UOI & Ors. and Vishambhar Dayal Vs. UOI & Ors. (OA 131/92<sup>and 129/92</sup>), which is dated 17.2.93. The learned counsel for the respondents has produced before us another order of this Bench of the Tribunal in Ashok Kumar & Ors. Vs. UOI & Ors. (OA 477/92), passed on 18.5.93. The learned counsel for the respondents has prayed that a decision in the instant case may also be taken in the light of the order dated 18.5.93 (supra), as the facts and circumstances of that case are identical with those in the present application. The learned counsel for the applicant has, however, opposed this plea.

3. On a perusal of the orders of this Bench of the Tribunal, produced before us, it seen that earlier there was an order dated 9.12.92 of this Bench of the Tribunal passed in Naval Kishore Sharma Vs. UOI & Ors. (OA 175/91). The decision in the case of Pati Ram and Vishambhar Dayal was based on the decision in the case of Naval Kishore Sharma. The decision in the case of Ashok Kumar is based on the decision in the case of Vishambhar Dayal Vs. UOI & Ors. (OA 129/92), decided on 17.2.93. These orders are, therefore, considered together for the purpose of taking a decision in the present application.

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4. The facts in the orders of the Tribunal, referred to above, are identical with those in the present application. It was the result of the same examination for the post of Postman, in which the applicant had also appeared, which was kept in abeyance and which was the subject matter in the decisions of this Bench of the Tribunal, referred to above. The applicants in those cases were also not given appointment in pursuance of the test held by the department. They had also appeared in the examination for the vacancies of Bharatpur Division, were offered appointments in Jaipur City Division, but were not appointed eventually even the vacancies in the Jaipur City Division. In OA 131/92 and 129/92 (Pati Ram and Vishambhar Dayal), the Tribunal have taken note of their observations in the order dated 9.12.92 in the case of Naval Kishore Sharma (OA 175/91), which was as under :-

"5. Since the examination has already been held and appointments made, we do not propose to cancel the examination or the appointments at this stage although the department has acted in contravention of the rules in holding the examination without appointing the applicants against the unfilled vacancies. The applications are, however, allowed to the extent that the respondents are directed to appoint applicants to the unfilled vacancies in the Jaipur City Division failing which to the vacancies in the other divisions of the region in order of their merit after their training and completion of other formalities. In case the vacancies fall short, then the remaining applicants shall be appointed in vacancies that may arise in future in any division in the region before fresh examination is held in any such division. They will be treated to have been appointed as a result of examination held on 24.11.91 pursuant to Annexure A/1 were appointed although they will be entitled to salary only from the date of their appointment."

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5. It was, later on, brought to the notice of this Tribunal in the case of Pati Ram and Vishambhar Dayal, that there were 15 vacancies to be filled in Jaipur City Division and only the first 15 candidates who had passed the examina-

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tion could be offered appointments in Jaipur City Division. This Tribunal had directed that in case the applicant figures amongst first 15 candidates who had qualified in the Bharatpur Division, after excluding candidates who had declined to serve in the Jaipur City Division, or who had not joined after offers of appointment were made within a reasonable period and whose appointment letter were consequently cancelled, may be given appointments in accordance with the Tribunal's order in OA 175/91 (Naval Kishore Sharma's case).

6. In Ashok Kumar's case (OA 477/92), this Tribunal had held, as follows:-


"2. We accordingly direct that in case the applicants figure amongst first 15 candidates who had qualified in the Bharatpur Division, after excluding the candidates who had declined to serve in the Jaipur City Division or had not joined after offers of appointment were made within a reasonable period and whose appointment letters were consequently cancelled, they may be given appointments in accordance with our order in OA 175/91 reproduced above."

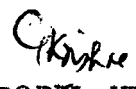
7. The learned counsel for the applicant states that there were not 15 vacancies to be filled up in Jaipur City Division but in fact there were 36 vacancies. There is, however, nothing in the pleadings of the applicant that the number of unfilled vacancies in Jaipur City Division was 36. The respondents, in their reply, have categorically stated that only 15 vacancies were required to be filled up in Jaipur City Division, and they had declined to appoint the applicant, because he did not fall within the first 15 candidates in the order of merit. After perusing the records, we have no reason to dis-believe the claim of the respondents that the number of vacancies was only 15. A judicial note of this fact was also taken by this Bench of the Tribunal in the case of Pati Ram and Vishambhar Dayal (OA 131/92 and 129/92).

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8. We, accordingly, hold that the applicant may be offered an appointment, in accordance with the directions reproduced at para 6, in the case of Ashok Kumar (OA 477/92). If, however, the applicant's name does not fall within the parameters of the directions given above, no appointment need be offered to him. The respondents shall take a decision in the matter within a period of three months, and send an appropriate communication to the applicant informing him whether he can be offered appointment or not. If he is eligible for appointment in accordance with the directions, referred to above, the <sup>offer</sup> officer of appointment shall be made to him within aforesaid period of three months.

9. The OA stands disposed of accordingly, with no order as to costs.

  
( O.P. SHARMA )  
MEMBER (A)

  
( GOPAL KRISHNA )  
MEMBER (J)