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CENTRAL ADMINISTRATIVE TRIBUNAL, EASTERN REGION,
JAIPUR.

D.A.NO. 1037/92 : Date of order: 14.7.93
Gulab Chand. : Applicant.
Mr. A.P. Pareek : Counsel for the applicant.

VERSUS

Union of India & Ors. : Respondents.
Mr. V.S. Gurjar : Counsel for the respondents.

CORAM:

HON'BLE MR. B.B. MAHAJAN, ADJ. MEMBER

HON'BLE MR. GOPAL KRISHNA, JUDL. MEMBER

PER HON'BLE MR. B.B. MAHAJAN, ADJ. MEMBER

Gulab Chand has filed this application under Section 19 of the Administrative Tribunals Act, 1935 against the order by which he was declared ineligible to appear in the examination for the post of Postman. The applicant was working as Extra Departmental Packer, at Beawar. He applied for appearing in the examination for the recruitment of postman notified by the Post Master General, Eastern Region, Raj, Jaipur, vide his order dated 22.10.91. Vide the impugned order the applicant was however, declared to be ineligible for appearing in the examination on the ground that he had participated in the strike on 25.5.39. The applicant stated that he was eligible to appear in the

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examination and he had been illegally denied the opportunity to appear in the same. He stated that no action had been taken against him for taking part in the strike and no order debarring him from sitting in the examination was ever passed. The respondents in their reply have stated that the applicant had participated in illegal strike on 25.5.39. An order dated 14.3.39 Annexure R/1 was passed by the Head Post Master Beawar by which his unauthorised absence on 25.5.39 was treated as break in service and it was ordered that his previous services will be forfeited for all purposes. The respondents have stated that the applicant was not eligible for appearing in the examination as 5 years service Extra Departmental Agents, is required for appointment to the post of Postman and in view of the forfeiture of the past service prior to 25.5.39 his service after that date only was to be considered. The learned counsel for the applicant has argued that the order at Annexure R/1, has not been served on the applicant and the order is violative of the Provisions of Rule 7 of the Extra Departmental Agents (Conduct and Services) Rules, 1934 (Rules for short). The learned counsel for the respondents has referred to instructions of the D.S. P & T contained in letter dated 23.5.36 published under Rule 19 of Swaney's Compilation of the Rules (1992 edition) which provide for punishment of break in service after issue

show-cause notice for participation in illegal strike. The learned counsel for the applicant states that these instructions are ultra-vires of the Rules. However, the order at Annexure R/1 cannot be impugned in these proceedings as, it has not been challenged in the O.A. So long as this order is not set-aside in appeal, review or other proceedings, it will have to be treated as valid. In view of this order, the services prior to 25.5.89 stood forfeited and as such the action of the respondents in treating the applicant as not eligible for appearing in the examination held in 1991 on the ground that he had not completed 5 years service as Extra Departmental Agents is in order. There is thus no force in this O.A. The same is accordingly dismissed. Parties to bear their own costs.

C. Kishore
(GOPAL KRISHNA)
Judl. Member

B. B. Mahajan
(B. B. MAHAJAN)
Adm. Member

Anil