

THE CENTRAL ADMINISTRATIVE TRIBUNAL

JAIPUR BENCH, JAIPUR

ORDER SHEET

Original)

APPLICATION NO.: 08/2013

Applicant (S)
Advocate for Applicant (S)

Respondent (S)
Advocate for Respondent (S)

NOTES OF THE REGISTRY	ORDERS OF THE TRIBUNAL
	<p>07/04/2014</p> <p>Mr. S. S. Solanki, Counsel for applicant. Mr. Anupam Agarwal, Counsel for respondents.</p> <p>Heard learned counsel for the parties.</p> <p>Order is reserved.</p> <div style="display: flex; justify-content: space-between; align-items: flex-end;"> <div style="text-align: center;"> <p>म. नारायण</p> <p>[M. Nagarajan] Member (J)</p> </div> <div style="text-align: center;"> <p>Anil Kumar</p> <p>[Anil Kumar] Member (A)</p> </div> </div> <p><u>Date-11-4-2014</u></p> <p>Order pronounced today in the open court by the aforesaid Bench.</p> <div style="text-align: right;"> <p><i>[Signature]</i></p> <p>11-4-14</p> <p>For-C.O.</p> </div>

The draft order passed in OA No.08/2013 is placed below for approval.

Anil Kumar
(ANIL KUMAR)
MEMBER (A)

Shri M.Nagarajan,
Member (J)

I agree.
M. Nagarajan

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH
JAIPUR**

Order reserved on 07.04.2014

Date of Order: 11.04.2014

ORIGINAL APPLICATION NO. 08/2013

CORAM

**HON'BLE MR. ANIL KUMAR, ADMINISTRATIVE MEMBER
HON'BLE MR. M.NAGARAJAN, JUDICIAL MEMBER**

Neel Kamal Khatiwal s/o Shri Bhawani Prasad Khatiwal, aged about 28 years, by Kumawat, Resident of Plot No.147, A.R.Gopalan Nagar, Khatipura, Jaipur

.....Applicant

(By Advocate Shri S.S.Solanki)

VERSUS

1.Union of India, through General Manager, North Western Railway, Jaipur

2.Railway Recruitment Cell, North Western Railway, Durgapura, Jaipur through Assistant Personnel Officer(Recruitment and Training)

.....Respondents

(By Advocate Shri Anupam Agrawal)

ORDER

Per Hon'ble Mr. Anil Kumar, Administrative Member

Applicant applied for a Group-D post in pursuance to an advertisement No.02/2010 issued by the respondents. The applicant appeared in the examination. The result of the

Anil Kumar

examination was declared on 8.9.2011. But the applicant did not find his roll number in pass candidates list.

2. He received certain information through R.T.I. Act. It was informed to the applicant that he has secured 70.17 marks in the examination whereas the cut of marks of his category i.e. OBC is 55.63. He has been informed that his application form has been rejected on the ground that he did not correctly fill up his date of birth in the application form.

3. The learned counsel for the applicant argued that the application form had 3 boxes for 'Year' column in the Date of Birth column. Usually, there are four column for the 'Year'. Therefore, the applicant was confused as to how he should write the 'year' in 3 boxes. Therefore, he left blank the column related to the year of birth in his application form. Thus the applicant is not at fault and the application form of the applicant has been rejected in an arbitrary and in unjust manner by the respondents.

4. The respondents have submitted their reply. The respondents stated that the application form submitted by the applicant was incomplete and thus invalid in as much as he failed to fill up the 'year' of his date of birth. The application form was filled by the applicant thus any lapse, if any, occurred

Anil Kumar

therein was by the applicant himself. As per code 8.11 (ii) incomplete and thus invalid applications are liable to be rejected. Accordingly no fault can be found in the action on the answering respondents.

5. The learned counsel for the respondents further argued that mere having more marks than the cut off marks is of no relevance when the application itself stood cancelled. Answering respondents after scrutiny had cancelled more than 1800 invalid applications as per the instructions of the Notification. It is possible that some of them might have scored more marks than the cut off marks. But it does not create any legal right in their favour. Accordingly the applicant also can not ask for any relief on such basis. He could have mentioned the 'year' by two digits only. Therefore, the action of the respondents in rejecting the application form of the applicant is only just and fair. And hence the OA be dismissed being devoid of merit.

6. Heard the rival submissions of parties and perused the documents on record. We have carefully perused the application form published by the respondents along with the advertisement published in the Employment News of 1-7 January, 2011 as Annexure R/1. Column 9 of this form relates to date of birth. Against the Date column there are 2 boxes.

Anil Kumar

Similarly, against the Month also there are 2 boxes but against the Year there are 3 columns. Usually against the Year there are 4 columns. Therefore, we are inclined to agree with the contention of the learned counsel for the applicant that he might have been confused seeing 3 boxes against the Year column. We have also perused the application form filled by the applicant at Annexure A-1. In this form he has filled up his date and month but has not filled the year. He has filled the first box of year column by 1 but then left two other columns blank. This shows that he made efforts to fill the Year also but because of only 3 boxes, he could not fill the year of his birth correctly. The respondents in the advertisement have not issued any instructions with regard to filling up the Year in three boxes.

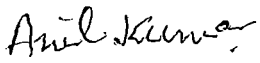
7. It has not been disputed by the respondents that the applicant is an OBC candidate and the cut off marks for selection of OBC candidate is 55.63 whereas the applicant has secured 70.17 marks in the examination. Thus the applicant is meritorious candidate. Assuming that there is an omission in filling up the application, such an omission is a curable defect. Merit shall not be ignored and requires to be given due weight. He will suffer irreparable loss if his application form is rejected by the respondents on this technical ground. In the absence of sufficient boxes available to fill the Year of birth, the mistake

Anil Kumar

of the applicant can be safely said to be bona fide, therefore, we direct the respondents to ignore this bona fide mistake on the part of the applicant and consider his case for appointment on a Group-D post according to the provisions of law if the applicant is otherwise eligible. The respondents are directed to complete this exercise expeditiously but not later than 3 months from the date of receipt of copy of this order.

8. With these directions the OA is disposed of.


(M.NAGARAJAN)
JUDICIAL MEMBER


(ANIL KUMAR)
ADMINISTRATIVE MEMBER

Adm/