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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

* * *

Date of Decision: 4/8/2000

OA 588/95

Chand Mal, E.D.Mail Man O/o HEO PMS 'J' Divisional Ajmer.

... Applicant

Versus

1. Secretary Union of India, Deptt. of Post, Ministry of Communication, Dak Bhawan, New Delhi.
2. Post Master General, Southern Region, Ajmer.
3. Supdt. RMS J. Division, Ajmer.
4. Shri Gulab Chand, ED Mailman, O/o HEO RMS J. Division, Ajmer.

... Respondents

CORAM:

HON'BLE MR.S.E.AGARWAL, JUDICIAL MEMBER

HON'BLE MR.N.P.HAWANI, ADMINISTRATIVE MEMBER

For the Applicant

... Mr.R.P.Pareek

For the Respondents

... Mr.Hemant Gupta, proxy

counsel for Mr.M.Rafiq

O R D E R

PER HON'BLE MR.S.E.AGARWAL, JUDICIAL MEMBER

In this OA filed u/s 19 of the Administrative Tribunals Act, the applicant makes a prayer to direct the respondents to fix his seniority at a proper place.

2. The facts of the case, as stated by the applicant, are that he was appointed as unapproved candidate on 16.6.84 after his name was sponsored by the Employment Exchange. Thereafter, the applicant worked upto 30.9.87 as unapproved candidate. He, thereafter, worked as E.D.Mail Man (EDMM, for

short) w.e.f. 1.10.87 to 31.10.89 against the vacant post. It is stated that the applicant also worked as Inspection Room Attendant cum Gardener w.e.f. 1.11.89 to 11.8.95 and as EDMM w.e.f. 11.8.95 to till date. It is further stated that gradation list was issued by respondent No.3 for EDMM but name of the applicant was missing in that list. The applicant made representation on 27.3.95. Meanwhile, again a gradation list (Annexure A/2) was issued, in which name of Shri Gulab Chand and Dharmi Chand appeared at Sl.No.6 and 8. It is stated that the applicant is working since 1984 as unapproved candidate and Shri Gulab Chand is junior to him by four stages but the respondents have treated the applicant unequally in fixing his seniority as the applicant's name appeared at Sl.No.12, whereas the name of respondent No.4 appeared at Sl.No.16. Therefore, the respondents have illegally made the applicant junior to respondent No.4. Therefore, the applicant filed this OA for the relief as mentioned above.

3. Reply was filed. In the reply it is stated that the applicant was engaged from time to time as substitute against the leave vacancy. It is also stated that the applicant worked as substitute from June, 1984 to September, 1987 against a Group-D employee's post, who went on leave, and from 1.10.87 to 17.7.89 as substitute against E.D. employee and the applicant never worked against any post whatsoever so far. It is also stated that from 24.7.89 the applicant worked as Part-time Attendant cum Gardener in the Inspection Bungalow and he was paid salary @ Rs.420/- plus D.A. It is admitted that the applicant submitted an application dated 2.8.95 for appointment against an E.D. post and the Chief

Records Officer gave him the order of appointment vide letter dated 12.8.95 for appointment on the post of EDMM. The case of the applicant in nutshell is that the gradation list of EDMM was issued on 19.9.94 but the name of the applicant was not included in that list. Therefore, the applicant has filed this OA, but in view of the averments made in the reply the applicant has no case for interference by this Tribunal and this OA is devoid of any merit and liable to be dismissed.

4. Rejoinder and additional reply to rejoinder have also been filed, which are on record.

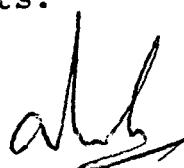
5. Heard the learned counsel for the parties and also perused the whole record.

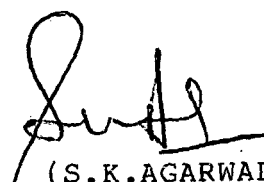
6. It is abundantly clear after perusal of the pleadings of the parties that before the applicant was appointed as EDMM on regular basis on 12.8.95, the applicant worked as a substitute or in the capacity of unapproved candidate. The applicant was appointed as EDMM on regular basis on 12.8.95 only. Therefore, his name was not included in the gradation list dated 1.7.94 and in the subsequent list dated 31.8.95 his name was included. It is also clear from the reply of the respondents that the applicant never worked regularly as unapproved casual labour/EDMM and Annexure A/3 is simply a list of selected unapproved candidates and not a seniority list. It is also clear from the reply that Shri Gulab Chand was appointed as EDMM on 1.9.89 and Shri Dharmi Chand on 4.8.92 but the applicant was appointed as EDMM on regular basis on 12.8.95. Therefore, Shri Gulab Chand and Dharmi

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Chand are much more senior to the applicant in the EDMM cadre. Seniority of employee in the Central Government department is to be determined from the date of continuous officiation/appointment, if such continuous officiation/appointment is in accordance with the rules. Services prior to regular appointment as provisional/substitute/unapproved candidate cannot be counted for the purpose of seniority. Therefore, looking to the facts and circumstances of this case and settled legal position, the applicant is not entitled to any relief sought for.

7. We, therefore, dismiss this OA with no order as to costs.


(N.P.NAWANI)
MEMBER (A)


(S.K.AGARWAL)
MEMBER (J)