

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

* * *

Date of Decision: 2/3/2001

OA 185/99

Dilip Singh s/o Shri Pawat Singh r/o F-4, Deep Bhawan,
Jagdamba Colony, Naya Ikeda, Ambawari, Jaipur.

... Applicant

Versus

1. Union of India through General Manager, Western Railway, Mumbai.
2. Divisional Fly Manager, W/Fly, Jaipur.

... Respondents

CORAM:

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

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

For the Applicant ... Mr.C.E.Sharma

For the Respondents ... Mr.Taj Prakash Sharma

O R D E R

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

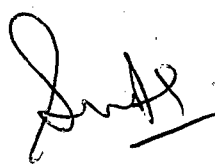
In this OA filed u/s 19 of the Administrative Tribunals Act, 1935, applicant makes a prayer to direct the respondents to appoint him on any suitable post, with all consequential benefits.

2. Facts of this case, as stated by the applicant, are that he is 10th Class passed and being Boxer he was selected in Sports quota in the year 1994. Thereafter, he was directed to attend coaching camp by granting Special Casual Leave for the period 16.9.94 to 15.10.94. The applicant also participated in 49th All India Railway Boxing Championship at Delhi in middle weight competition. It is stated that one Shri Devi Singh, who participated like the applicant in Boxing Competitions, was appointed on the post of Store Khalasi. The applicant also made request vide his application dated 30.11.95 but he was not given appointment. It is further stated that services of the applicant were utilized in Coaching Camps and Competitions organised in the years 1995, 1996 and 1997 but no regular appointment was given to him. It is also stated that the applicant approached the authorities personally and also met the

Railway Minister in the year 1997 and 1998 but with no result. It is stated that the applicant fulfils all the norms for recruitment, appointment but he has not been appointed so far. Therefore, action of the respondents not appointing the applicant in Sports quota is arbitrary, unjust and in violation of Articles 14 and 16 of the Constitution of India. As such, the applicant has filed this OA for the relief claimed, as above.

3. Reply was filed. It is stated in the reply that a sports person who fulfils all the eligibility criteria as per recruitment rules is entitled to be appointed against Sports quota. Shri Devi Singh was appointed as he fulfilled all the norms as per recruitment rules and he was found fit during the trial. It is stated that applicant was never recruited against sports quota. It is further stated that he submitted an application alongwith School Leaving Certificate (TC), in which his date of birth was shown as 3.7.75. It is further stated that the applicant during the coaching camp from 26.9.94 to 29.10.94 informed the respondents that he has passed Matriculation Examination and in support of this he produced a copy of the certificate issued by the Board of Secondary Education, Rajasthan (Secondary School Examination, 1989). The date of birth in this certificate is shown as 6.9.71 and in the marks-sheet the date of birth is 6.9.74. Thus, the applicant has given three different date of births and hence it was decided to drop the case of the applicant for recruitment against sports quota. Therefore, the applicant has no case for interference by this Tribunal and this OA is liable to be dismissed as such.

4. Rejoinder has also been filed. It is stated in the rejoinder that applicant passed 8th Class from MKB Girls Senior Higher Secondary School, Nehru Nagar, Jaipur, in the year 1983-84 and thereafter he studied in Darbar Higher Secondary School, Jaipur, from the year 1984 to 1986 but could not pass 10th Class. Thereafter, the applicant appeared as a private candidate and passed Secondary Examination from the Board of Secondary Education,



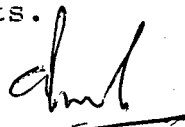
Rajasthan, in the year 1989, in which certificate the correct date of birth of the applicant is mentioned as 6.9.71 and he never informed regarding the different date of births to the respondents. It is also stated in the rejoinder that he never tried to get the appointment by fraudulent means rather respondents themselves manipulated, fabricated the documents to deprive the applicant of his rightful claim. It is stated that the respondents tried to register a case against the applicant but could not be successful. Therefore, action of the respondents denying appointment to the applicant on this ground is arbitrary, illegal and in violation of Articles 14 and 16 of the Constitution.

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

5. Admittedly, the applicant has passed Secondary School Examination from the Board of Secondary Education, Rajasthan, in the year 1989. Copy of the certificate issued by the Board of Secondary Education, Rajasthan, has been produced by the applicant. The applicant has also produced for perusal the original certificate, in which date of birth of the applicant is shown as 6.9.71. In the certificate issued by the MKE Girls School, Nehru Nagar, Jaipur, (Ann.A/6), the date of birth of the applicant has been shown as 6.9.71. In the same way, in Ann.A/7, date of birth of the applicant has been shown as 6.9.71. In the marks-sheet issued by the Board of Secondary Education, Rajasthan, in the name of Dilip Singh Rathore, the date of birth of the applicant has been shown as 6.9.71 and also in the certificate issued by the Board of Secondary Education, Rajasthan, the date of birth of the applicant has been shown as 6.9.71. No inquiry appears to have been made by the respondent department before taking a decision not to appoint the applicant on the ground of different date of births and no opportunity of hearing appears to have been given to the applicant before taking the decision of not appointing the applicant. Therefore, action of the respondents to deny appointment to the applicant against

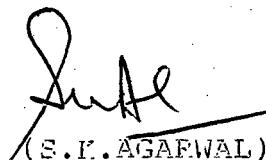
sports quota appears to be arbitrary, unjust and in violation of Articles 14 and 16 of the Constitution of India as the applicant fulfils the eligibility criteria for recruitment against sports quota. Therefore, in our considered view, the applicant is entitled for appointment on any suitable post available with the respondent department against sports quota.

6. We, therefore, allow this OA and direct the respondents to appoint the applicant on any suitable post against sports quota within a period of two months from the date of receipt of a copy of this order. No order as to costs.



(N.P. NAWANI)

MEMBER (A)



(S.K. AGARWAL)

MEMBER (J)