

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH,

JAIPUR

Dated of order: 10.09.2003

OA No.231/1999

Kishan Gopal s/o Shri Hajari Lal, aged about 28 years r/o
Nehru Nagar, Kota Junction.

.. Applicant

Versus

1. Union of India through General Manager, Western
Railway, Churchgate, Mumbai.
2. The Divisional Railway Manager, Western Railway,
Kota Division, Kota Junction.

.. Respondents

Mr. Mahesh Sharma, counsel for the applicant.

Mr. T.F.Sharma, counsel for the respondents

CORAM:

HON'BLE MR. M.L.CHAUHAN, MEMBER (JUDICIAL)

HON'BLE MR. A.K.BHANDARI, MEMBER (ADMINISTRATIVE)

O R D E R

PER HON'BLE MR. M.L.CHAUHAN.

The respondent No.2 published vacancy for appointment to the post of Class-IV employee who were to be appointed in Kota Division. In all total number of 115 vacancies were declared which were to be filled through examination. The appointments were to be made in Traffic and Medical Departments. It is further averred in the OA that the examination for selection to the said posts were held by respondent No.2 w.e.f. 28.7.97 to 5.8.97. It is further case of the applicant that he appeared in the said examination conducted by the respondent No.2. The respondent No.2 has declared a list of successful candidates vide merit list No.SEMD/891/5 (safaiwala) on 6.8.97 (Ann.A1) in which his name appeared at Sl.No.63. It

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is further stated that the applicant has submitted all the certificates relating to work and experience to respondents No.2 during the time of examination. The respondent No.2 has mentioned in the said list Ann.A1 that the appointment of the applicant on Class-IV employee was subject to verification of certificates etc. In the similar manner, the appointment of the candidates whose name find place at SL.Nos. 17,23,51,64,67,68,69,79 and 82 were also made subject to the verification of the certificates produced by them. The respondent No.2 has given appointment to all candidates but no such appointment was given to the applicant. As such he has filed the present OA thereby praying that the respondents be directed to appoint the applicant to the post of Class-IV employee in accordance with Ann.A1 and to be posted in Kota Division in Traffic or Medical department and issue appointment letter accordingly. The applicant has further prayed that his seniority and other consequential reliefs should be counted from 6.8.97 and he may be given other benefits of pay, fixation etc. from 6.8.97.

2. The respondents have filed reply. In the reply, it is not disputed that vide order dated 6.8.97 (Ann.A1) result of 115 candidates were declared and against the candidates appearing at SL.No.17,23,51,63,64,67,68,69,79 and 82 it was mentioned that their appointment is subject to verification of the correctness of the certificates/records produced by them. Out of the aforesaid candidates, persons appearing at No. 64, 69 and 79 have got the correctness of their certificates/records verified and thereafter they have been given the appointment. The certificates/records produced by the

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applicant have not been found to be correct, as such even the very eligibility of the applicant is not proved and, therefore, he could not be given appointment. It is further stated that the applicant made a representation through the Trade Union (Western Railway Employees Union) for appointment which was duly replied vide letter dated 27.11.1998 and has been clearly mentioned the reasons why the applicant could not be given appointment. After this letter there remains no manner of doubt. The applicant has concealed this material fact from this Hon'ble Tribunal, therefore, this application deserves to be dismissed on this score alone.

3. The applicant was given opportunity to file rejoinder vide order dated 25.5.2000 and the matter was listed on 19.7.2000. It was further mentioned that no further time shall be allowed, but the applicant has not filed any rejoinder.

4. We have heard the learned counsel for the parties and gone through the material placed on record.

4.1 The matter was admitted and listed for hearing on 13.11.2000. On that date, it was further observed that the question of limitation shall remain open. In this case the applicant is seeking relief on the basis of the order dated 6.8.97 (Ann.A1) whereby the result of 115 successful candidates was declared. The result of the applicant amongst others was declared subject to verification of correctness of the certificates/records produced by him. The applicant has filed the present application on 5.5.99 after a lapse of about 2 years. As per Section 21 of the Administrative Tribunals Act, 1985, the application has to

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be filed within one year from the date when the cause of action has arisen. The applicant has also not filed any application for condonation of delay in terms of Section 21(3) of the AT Act. As such, the application is barred by limitation and the application can also not be entertained in view of the law laid down by the Apex Court in the case of Union of India vs. Ramesh Chand, 2000 SCC (L&S) 53.

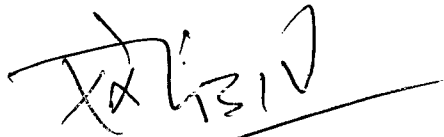
4.2 That apart, the applicant was also informed of the reasons of his non-selection vide order dated 27.11.98, as can be seen from para 6 of the reply of the respondents. The applicant has also not challenged the said order, as such the validity of the said order cannot be examined. Even on this score also the application is liable to be rejected.

4.3 Further, even on merits, the applicant has not made out any case so as to require our interference in the matter. An appointment of a person made for a post did not thereby acquire a right to be appointed to such a post is well established by judicial precedence. Even if vacancy exists, it is open to the authority to decide how many appointment is to be made. In the instant case the result of the applicant was declared subject to the condition that he shall be given appointed subject to correctness of the certificates/record furnished by him. According to the respondents, the certificate/record so produced by the applicant at the time of examination was not found to be correct and thus he was not even eligible for appearing in the examination for the said post. The applicant was informed about the reason for his non-selection vide letter dated 27.11.98. The applicant has not chosen to challenge the said letter and as such this Tribunal cannot examine the legality or otherwise of the said letter.

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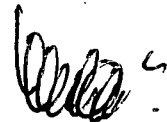
4.4 In view of what has been stated above, the applicant has not made out any case on merits as well as the OA is barred by limitation. Accordingly, the OA is liable to be dismissed on both counts.

5. This OA is accordingly dismissed with no order as to costs.



(A.F. BHANDARI)

MEMBER (A)



(M.L. CHAUHAN)

Member (J)