

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR

Date of order: 21.5.2001

OA No.482/1999

Surendra Kumar s/o Nanag Ram r/o House No.696, Raja Lawan Ka Gher, Bandrika Nasik, Jaipur.

.. Applicant

Versus

1. Union of India through the Secretary to the Government of India, Department of Posts, Dak Bhawan, New Delhi.
2. Chief Postmaster General, Rajasthan Circle, Jaipur
3. Senior Supdt. Railway Mail Service, 'JP' Dn., Jaipur
4. Head Record Officer, Railway Mail Service, 'JP' Dn., Jaipur.
5. Incharge - Record Officer, Jaipur R.S.Branch, Jaipur.

.. Respondents

Mr. Hemant Gupta, proxy counsel to Mr. P.N.Jati, counsel for the applicant.

Mr. N.C.Goyal, Counsel for the respondents.

CORAM:

Hon'ble Mr. S.K.Agarwal, Judicial Member

Hon'ble Mr. A.P.Nagrath, Administrative Member

ORDER

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

In this OA filed under Section 19 of the Administrative Tribunals Act, 1985, applicant makes a prayer to direct the respondents to appoint the applicant on the vacant post of Extra Departmental Mailman (for short ED Mailman).

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2. In brief, the facts of the case, as stated by the applicant are that applicant was appointed as Group 'D' employee in

the office of Railway Mail Service, Jaipur vide order dated 17.10.88 but without assigning any reason, the respondents have dis-engaged the services of the applicant w.e.f. September, 1990. Thereafter the applicant is trying to get the appointment on the post. It is stated that applicant is fully eligible for the post of ED Mailman and the post of ED Mailman is also vacant. The applicant has also worked for 240 days in a year and has also applied for the post, but he has not been appointed on the post. Therefore, he filed this OA for the reliefs as above.

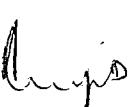
3. Reply was filed. In the reply it is stated that applicant did not submit any application in pursuance of any advertisement and applicant suo-moto sent his application for recruitment on the post of ED Mailman. The applicant was engaged as substitute to work against the leave vacancy of Group 'D' employees from October, 1988 to September, 1990 and was never appointed by the Department. The applicant has also not completed 240 days in any of the year i.e. 1988, 1989 and 1990. It is also stated that recruitment can be made as per extant rules on the subject. Therefore, it is stated that applicant has no case for interference by this Tribunal and this OA having no merits is liable to be dismissed.

4. Heard the learned counsel for the parties for final disposal of this OA at the stage of admission and perused the whole record.

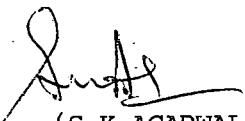
5. It is undisputed fact that no advertisement/notification /publication for inviting applications for recruitment of ED Mailman was issued by the respondent Department and it appears that applicant sent his application suo-moto to respondents for recruitment on the post of ED Mailman. It is also an admitted fact that recruitment on

the post of ED Agent shall be made in accordance with the instructions issued by the Government of India, Ministry of Communications, Department of Posts, Dak Bhawan, New Delhi from time to time. The circular dated 14.8.1998 issued in this regard appears to have been issued based upon the judgment of the Apex Court in Excise Superintendent Malkapatnam v. K.B.N. Vishwashrara Rao and Ors., reported in 1996 (6) SCC 216. It also appears that the case of the applicant was considered sympathetically, but it was found that applicant has not completed 240 days in a year. The applicant was engaged as substitute to work against the leave vacancy of Group 'D' employees and as and when required on need basis and paid on daily rates. He was never appointed by the Department. The applicant himself failed to enclose any documentary evidence for completing 240 days in a year as the applicant was simply utilised in unmanageable short term vacancies which arose due to absenteeism of regular Group 'D' employees and was dis-engaged as soon as a regular incumbent returned to his post after availing his leave. Therefore, applicant has no case and we have no option except to dismiss this OA having no merits.

6. We, therefore, dismiss this OA having no merits at the stage of admission with no order as to costs.


(A.P. NAGRATH)

Adm. Member


(S.K. AGARWAL)

Judl. Member