

THE CENTRAL ADMINISTRATIVE TRIBUNAL  
JAIPUR BENCH, JAIPUR

O.A. No. 334/2002

200

~~T.A.~~ No.

DATE OF DECISION 06 .06.2003

AJAY KUMAR AND THREE OTHERS

Petitioner

MR. K.L. Thawani

Advocate for the Petitioner(s)

Versus

UNION OF INDIA AND ORS.

Respondent

MR. N.C. GOYAL

Advocate for the Respondents(s)

CORAM:

The Hon'ble Mr. Justice G.L. Gupta, Vice Chairman

The Hon'ble Mr. G.C. Srivastava, Administrative Member

(G.C.Srivastava)  
Adm. Member

(G.L.Gupta)  
Vice Chairman

1. Whether Reporters of local papers may be allowed to see the Judgement?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgement?
4. Whether it needs to be circulated to other Benches of the Tribunal ?

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
JAIPUR BENCH, JAIPUR

.....

Date of Order : 06.06.03

O.A.No. 324/2002

1. Ajay Kumar Kishnani S/o Shri Jassaram aged about 26 years, resident of Sindhi Colony, Gulabpura, District Bhilwara, and approved candidate as Sorting Assistant Office of the Superintendent, RMS, 'J' Division, Ajmer.
2. Smt. Indra Khalsa W/o Shri Surrendra Singh aged about 28 years, resident of R 6/4 132 KV, GSS Colony Near New Hospital, Dungarpur (Raj), and approved candidate for Sorting Assistant, Office of the Superintendent RMS 'J' Division, Ajmer.
3. Rajesh Kumar S/o Shri Niranjana Prasad, aged about 29 years, resident of Type II 16/D Anu Kiran Colony, Ballabhanagar, Via Kota, (Raj), and approved candidate for Sorting Assistant Office of the Superintendent of RMS 'J' Division, Ajmer.
4. Baku Lal Meena, S/o Shri Devilal aged about 31 years, resident of Vill. and Post Office Paduna, Distt Udaipur (Raj). and approved candidate for Sorting Assistant Office of the Superintendent RMS 'J' Division, Ajmer.

.....Applicants

VERSUS

1. Union of India through the Secretary to the Govt. of India, Department of Posts, Ministry of Communications, New Delhi.
2. Chief Post Master General,  
Rajasthan Circle,  
Jaipur
3. Post Master General,  
Rajasthan Southern Region,  
Ajmer.
4. Superintendent of RMS,  
'J' Division,  
Ajmer.

.....Respondents.

CORAM :

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Hon'ble Mr. Justice G.L. Gupta, Vice Chairman  
Hon'ble Mr. G.C. Srivastava, Administrative Member

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Mr. K.L. Thawani, counsel for the applicants.  
Mr. H.C. Goyal, counsel for the respondents.

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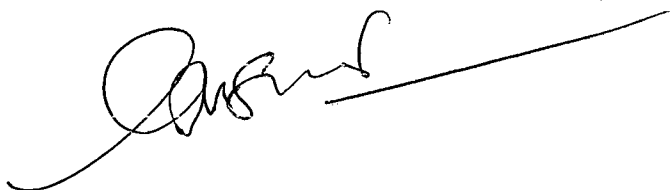
ORDER  
[PER MR. JUSTICE G.L. GUPTA]

The applicants' directions to the respondents to give appointment to them apply on the post of Shorting Assistants on the basis of their selection year 1997.

2. The admitted facts of the case are these. The Superintendent, Railway Mail Service, Ajmer, invited applications for filling up the posts of Shorting Assistants for the vacancies of the year 1997. The applicants were sponsored by the Employment Exchange. They succeeded in the written test and interview. They also deposited Rs. 7000/- as a security deposit. They were directed to under-go observation training for 15 days vide order dated 23.2.1998. They were asked to under-go theoretical training for two and a half months at Saharanpur vide order dated 26.6.1998. The applicants completed the theoretical training and they were given fifteen days practical training in the various offices. They were asked to work on the post of Shorting Assistants during the period of the strike in the Postal Department.

2.1. The grievance of the applicants is that despite their selection, training and experience, they have not been appointed as yet instead, the Chief Post Master General, Rajasthan Circle, Jaipur, has invited applications for making recruitment for the vacancies which occurred in the years 1998, 1999 and 2000.

3. The respondents' contention is that the vacancies of the year 1997 have ceased to exist because of the abolition of the posts and no vacancy is available in the Railway Mail Service (J), Division Ajmer,



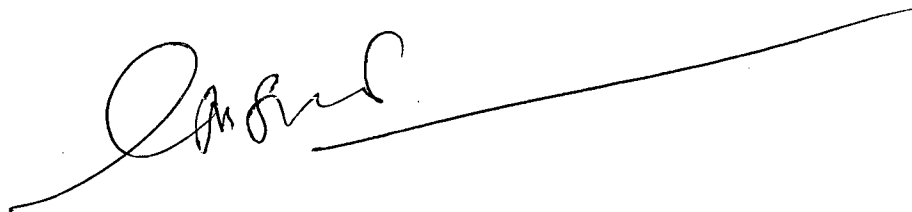
therefore, the applicant cannot be given appointment. It is further stated that the Notification Annexure A/12, has been issued for the different Divisions and the applicants cannot be appointed on the vacancies available in the Divisions notified in Annexure A/12.

4. We have heard the learned counsel for the parties and perused the documents placed on record.

5. As already stated, it is no more in dispute that the applicants had applied for the vacancies of 1997 and they had also been selected selected for the post. It is settled legal position that mere selection of the candidates for the posts does not confer a right of appointment on them. The competent authority may for adequate reasons, refuse to appoint the persons whose names appeared in the selection panel. In the instant case, the respondents' version is that because of the abolition of some posts, the vacancies of 1997 which were notified for the Railway Mail Service, Division Ajmer, are not available and as there are no vacancies, the applicants cannot be appointed. There is no reason to dis-believe the version of the respondents. It is relevant to state that the applicants have not refuted the contentions of the respondents by filing rejoinder.

6. The fact remains that though the applicants had been selected for the posts of Sorting Assistant but, thereafter, some posts of Sorting Assistants in Ajmer Railway Mail Service Division were abolished. The respondents, therefore, cannot be said to have faulted when they have refused appointment of the applicants.

7. Mr. Thawani, pointing out that the selections were made in

A handwritten signature in dark ink, appearing to read 'Mr. Thawani', is written over a horizontal line.

the year 1998 and the posts were abolished from and after October 1998, contended that the appointments could be made before the abolition of the posts but the respondents deliberately did not give appointment to the applicants.

8. It is seen that the respondents were taking steps to give appointment to the applicants. Even the applicants were sent for practical and theoretical training. It is not averred in the application that the action of the respondents in not giving appointment prior to October 1998, was mala fide. Some time was bound to be taken in completing the formalities of appointments. It is to the mis-fortune of the applicants that two posts were abolished in the year 1998 and then more posts were abolished in the year 1999. There was no time limit within which the respondents were bound to give appointment to the selected persons. Therefore, no adverse inference can be drawn against the respondents when appointments were not made prior to 1.10.1998. As already stated, even the applicants do not allege mala fides on the part of the respondents.


9. Since the vacancies advertised are not available, the respondents cannot be directed to give appointment to the applicants even though they had been selected. It is seen that no recruitment has been made in the year 1998 or 1999 or 2000 in the Ajmer Division of Railway Mail Service on the post of Sorting Assistants. The applicants cannot succeed in this O.A.


10. Consequently, the O.A., being devoid of merit, is dismissed. However, it is worth-while to observe that if the applicants can be accommodated in any other Division by the Chief Post Master General, it



will help not only the applicants but also benefit the Postal Department as the Department has spent considerable amount in the selection process and training of the applicants. Not only that, even the applicants have got experience of work during the strike period.

11. No order as to costs.

  
(G.C. Srivastava)  
Adm. Member

  
(G.L. Gupta)  
Vice Chairman

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jrm

or