

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH,

JAIPUR

Dated of order: 08.09.2003

OA No.97/2003

Bhagchand Sharma s/o Shri Maheshchand r/o 34, Haryana Colony, Dadu Marg, Tonk Phatak, Jaipur.

.. Applicant

Versus

1. Union of India through the Secretary to the Government, Ministry of Railway, Rail Bhawan, New Delh.
2. The Chairman, Rail Board, Rail Bhawan, New Delhi.
3. The Divisional Railway Manager (P), Central Railway, Bhusawal Division, Bhusawal (MP).

.. Respondents

None present for the applicant.

Mr. U.D. Sharma, counsel for respondents

CORAM:

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

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

O R D E R (ORAL)

With a view to conduct a special recruitment drive for clearing the backlog of physically handicapped persons, applications for the post of Junior Clerk and Junior Stenographer were invited from the visually handicapped persons with a vision capacity not exceeding 6/60 or 20/200 (Snellen) in better eye with correcting lenses and limitation of field of vision subtending an angle of 20 degree or worse. An advertisement to this effect was published in Poojar Samachar of 11th August, 2001, copy of which has been annexed with this OA as Ann.A1. Pursuant to the said advertisement, call letter dated 10.12.01 (Ann.A2) was issued to the applicant for

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appearing in the written examination. The written examination was held on 5.1.2002 and result of the said written examination was posted on 6.1.2002 and thereafter a typing test was also held on the same date. Interview of successful candidates was held on 7.1.2002. The case of the applicant in the present OA is that despite of issuance of the call letter, he was not allowed to appear in the written test because of his being blind and moreover he was not allowed of use of Braille nor he was provided a writer inspite of his several request, for the said written test. According to the applicant, the action of the respondents is discriminatory and, therefore, has filed the present OA thereby praying for the following reliefs:-

- "(a) by an appropriate order or direction, the respondents may kindly be directed to keep one post reserved for the applicant;
- (b) by an appropriate order or direction the respondents may kindly be directed to take written test, type test and interview of the applicant by using braille and if the applicant is selected, he may be given appointment against the quota for the blind with effect from the date from which other persons have been given appointment in pursuance of the advertisement Annexure.I with all consequential benefits.
- (c) Any other directions which the learned Tribunal may deem fit in the facts and circumstances of the case including appropriate compensation for harassment may also kindly be given in favour of the applicant.
- (d) Cost of application may kindly be awarded in

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favour of applicant."

2. Notices of this application were issued to the respondents. The respondents have filed reply. In the reply, it has been stated that pursuant to the advertisement issued vide Ann.A1, call letter dated 10.12.01 was issued to the applicant for appearing in the written examination which was held on 5.1.2002 and the grievance of the applicant in this case is that he was not allowed to appear in the written examination. Thus, the cause of action accrued to him on 5.1.2002 whereas he has filed this OA sometime in first week of March, 2003 i.e. beyond the period of one year prescribed by Section 21 of the Administrative Tribunals Act, 1985. Thus the application is barred by limitation and as such not maintainable and deserved to be dismissed on this ground alone.

2.1 On merits, it has been stated that as per the advertisement, the post were meant to be filled from the visually impaired/handicapped persons with vision capacity as indicated in the advertisement and totally blind persons were not eligible for submitting application for the said examination. The applicant being totally blind and thus not eligible as per the eligibility condition prescribed in the said advertisement. It is further averred that the applicant did not present himself at the venue of the written examination. The respondents have also placed on record copy of the attendance sheet for the said examination held on 5.1.02 as Ann.R1. As per this document, candidates who were present for the said examination have appended their signatures against their names. In the said attendance sheet, the name of the

applicant finds place at Sl.No.40 and against his name, the entry of 'absent' has been made by the Supervisor. It is further averred that the candidates were permitted to present themselves upto one hour late from the scheduled time of the examination as due to some exigency some candidates may arrive late. The candidates who did not present were marked absent by the Supervisor. Since the applicant has not appeared in the written examination, as such no relief can be granted to him.

3. The applicant has not filed any rejoinder controverting the submissions made by the respondents in their reply.

4. The matter was listed on 6.3.2003. On 6.5.2003, none has put in appearance on behalf of the respondents. Even today, none has appeared on behalf of the applicant.

5. We have heard the learned counsel for the respondents and gone through the material placed on record.

5.1 From the facts as stated above, it is evident that the applicant being totally blind person was not eligible for the post advertised vide Ann.A1. As ~~per~~^{per} this advertisement, applications were invited from the visually handicapped persons with vision capacity not exceeding 6/60 or 20/200 (Snellen) in better eye with correcting lenses and limitation of field of vision subtending an angle of 20 degree or worse. In spite of the fact that the applicant was not eligible for the post of Junior Clerk/Junior Stenographer, still a call letter was issued to him vide letter dated 10.12.01 for appearing in

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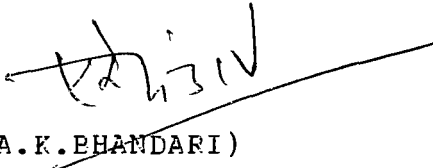
the written examination to be held on 5.1.2002. The respondents have placed on record copy of the attendance sheet (Ann.R1). Perusal of this document reveals that the applicant's name find place at Sl.No.40 and against his name entry of 'absent' has been made. Perusal of this documents further reveals that the persons who were present have appended their signatures on the said sheet. From this, it is quite evident that despite the call letter issued by the respondents the applicant has remained absent and did not appear in the written examination held on 5.1.2002. As such the applicant cannot make any grievance and, therefore, the contention of the applicant that he was not allowed to appear in the said examination cannot be accepted.

5.2 That apart, in case the applicant was aggrieved of the action of the respondents in not allowing him to appear in the written examination held on 5.1.2002, he should have approached this Tribunal immediately thereafter within a reasonable period. The applicant has ~~checked~~^{slept} over the matter and has filed this OA only on 20.2.2003 after a lapse of the statutory period of one year as prescribed under Section 21 of the Administrative Tribunals Act, 1985. The applicant has also not moved any application for condonation of delay as required under Section 21, sub-section 3 of Administrative Tribunals Act. As such the present application cannot be entertained being time barred in view of the law laid down by the Apex Court in Union of India vs. Ramesh Chand, 2000 SCC (L&S) 53.

6. In view of what has been stated above, the present OA cannot be entertained being time barred and

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also the applicant has not made out any case on merits.
Accordingly, the present OA is dismissed at admission
stage with no order as to costs.


(A.K. PHANDARI)

Member (A)


(M.L. CHAUHAN)

Member (J)