

CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH : JAIPUR

Date of Decision : 11.08.2004

Original Application No.58/2003.

Mahendra Kumar Nama S/o Shri Nand Lal Nama aged about 29 years, R/o Village Lamba, Hari Singh, Tehsil Malpura, District Tonk, Rajasthan.

... Applicant.

v e r s u s

1. Union of India through General Manager, Western Railway, Churchgate, Mumbai.
2. The Chairman, Railway Recruitment Board, Ajmer.
3. The Divisional Railway Manager, Ratlam Division, Western Railway, Ratlam (M. P.).
4. The Divisional Railway Manager, Jaiupr Division, Western Railway, District Jaiupr (Raj.).
5. The Divisional Railway Manager, Ajmer Division, Western Railway, District, Kota.
6. The Divisional Railway Manager, Baroda Division, Northern Railway, Baroda House, New Delhi.
7. The Chairman, Railway Board, Rail Bhawan, New Delhi.

... Respondents.

Mr. P. P. Mathur counsel for the applicant.

Mr. S. S. Hassan counsel for respondent No.1 to 3.

Mr. Tej Prakash Sharma counsel for respondent No.4to5.

CORAM

Hon'ble Mr. M. L. Chauhan, Judicial Member.

Hon'ble Mr. A. K. Bhandari, Administrative Member.

: O R D E R (ORAL) :

The applicant has filed this OA, thereby praying for the following reliefs :-

"(i) That the order dated 12.8.2002 may be quashed and set aside.

(ii) respondents may be directed to give

appointment to the applicant on the post of Health Inspector Grade 5500-9000 w.e.f. the date when Shri Samir Bhushan Kumar was offered the appointment. Any other consequential benefits including pay fixation, seniority or promotion may also be allowed.

(iii) The applicant may also be allowed the cost of Rs.20,000/- in litigation expenses occurred and also arrear of back wages accruing to him with interest at the rate of 12% per annum.

(iv) Any other appropriate order or direction which the Hon'ble court thinks just and proper in the facts and circumstances of the case and which is in favour of the applicant may kindly also be passed."

2. The facts of the case are that the Railway Recruitment Board conducted selection for appointment to the post of Health Inspector in pursuance of Employment Information No.1 of 1999. The applicant who fulfilled the eligibility condition also applied for the same. He was allowed to appear in the selection and his name was recommended for appointment to the said post. However, the respondents did not issue the appointment letter and the applicant also submitted representation in the matter requesting for issuance of appointment letter. It is further pleaded that one Shri Samir Bhushan Kumar who belongs to OBC category (in which category the applicant also belongs) selected and offered appointment, conveyed his refusal vide letter dated 08.08.2000 on the said post, as such, the post was available and applicant ought to have been given appointment against the post, though according to respondents such refusal was received on 12.10.2000 after the date of expiry of panel i.e. 27.09.2000.

3. It is further averred that since nothing was heard from the respondents despite repeated representations, the applicant filed OA No. 157/2002 before this Tribunal and the same was disposed of vide order dated 10.04.2002 and the respondents were directed to decide the representation of the applicant dated 28.07.2001. Copy of this order has been placed on record as Annexure A-6. The applicant

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has further averred that one Shri Ramji Lal Meena has also filed OA No.593/2001. The said OA was decided by this Tribunal on 02.07.2002 and the respondents were directed to appoint the applicant on the post of Health Inspector, Scale Rs.5500-9000 in Ajmer Division within a period of one month from the date of receipt of a copy of the order. The grievance of the applicant is that his case is fully covered by the judgement rendered by this Tribunal in the case of Ramji Lal Meena which was decided on 02.07.2002, as such, he is also entitled to the similar relief and the rejection of the representation of applicant vide order dated 12.08.2002 on the ground that currency of panel has expired is illegal.

4. Notice of this application was given to the respondents. The respondents have filed reply. In the reply, it has been stated that the applicant could not be given appointment on the said post as the currency of panel had already expired and the competent authority did not agree to extend the currency of the panel. As such, the representation of the applicant which was rejected pursuant to the order passed by this Tribunal in earlier OA is justified.

5. We have heard the learned counsel for the parties and have gone through the material placed on record. It is not disputed that the issue involved in this case is squarely covered by the decision rendered by this Tribunal in the case of Ramji Lal Meena decided on 02.07.2002. In that case also, the applicant was not given appointment on the same ground that the currency of the panel has expired and the competent authority has not extended the period of panel. Thus Tribunal in Para 6 & 7 of the judgement has made the following observations :-

"6. The learned counsel for the applicant has drawn out attention to Annexure A/3 and A/4. It is seen that these letters

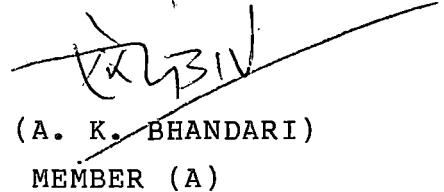
that there is no mention regarding the time period for currency of the panel. The ground of expiry of the currency of the panel is after thought and such ground cannot be entertained since the order issued by the authorities are be read as it is and nothing can be added and nothing can be reduced. The respondents have also not submitted any details as to what was time period for currency of the panel and when it expired. The order dated 24.4.2001 (Annexure A/4) do not indicate any such details. We are in agreement with the arguments of the learned counsel. These orders do not make any mention regarding any condition especially regarding the currency of the panel and the respondents now cannot be permitted to adduce any justification or interpolate anything in these order so as to defeat the claim of the applicant. We are supported in our view by the verdict of Hon'ble Supreme Court in Mohinder Singh Gill & Another vs. The Chief Election Commissioner, New Delhi & Others, AIR 1978 SC 851. The relevant portion is extracted as under :-

"When a statutory functionary makes an order based on certain grounds, its validity must be judged by the reasons so mentioned and cannot be supplemented by fresh reasons in the shape of affidavit or otherwise. Otherwise, an order bad in the beginning may, by the time it comes to court on account of a challenge, get validated by additional grounds later brought out.

7. Thus the contention of the respondents that the applicant is not being given appointments since the currency of the panel is over, is not tenable....."

6. In view of the reasons given by this Tribunal in the case of Ramji Lal Meena, we are of the view that the applicant is also entitled to the similar relief against the available vacancy for OBC category on the post of 'Health Inspector' in Ajmer Division. It is not disputed by learned counsel for the respondents that the judgement in the case of Ramji Lal Meena has attained finality.

7. In view of what has been stated above, the present Original Application is allowed. Order dated 12.08.2002 is quashed. The respondents are directed to appoint the applicant on the post of Health Inspector in the scale of Rs.5500-9000/- in Ajmer Division within a period of six weeks from the date of receipt of a copy of this order. The OA shall stand disposed of accordingly with no order as to costs.


(A. K. BHANDARI)

MEMBER (A)


(M. L. CHAUHAN)

MEMBER (J)