

(10)

NOTES OF THE REGISTRY

ORDERS OF THE TRIBUNAL

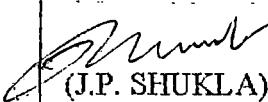
Rejoinder not  
filed

11.12.2006

OA No. 179/2005

Mr. Nand Kishore, counsel for applicant.  
Mr. N.C. Goyal, counsel for respondents.

On the request of the learned counsel for the parties, let the matter be listed for hearing on 24.01.2007.

  
(J.P. SHUKLA)  
MEMBER (A)

  
(M.L. CHAUHAN)  
MEMBER (J)

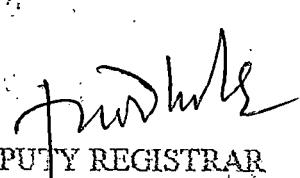
AH

OA 179/2005

24.01.2007

Present : Mr Nand Kishore, counsel for applicant.  
Mr. N.C. Goyal, counsel for respondents.

This matter has been listed before the Deputy Registrar due to non-availability of Division Bench. Be listed before the Hon'ble Division Bench on 20.03.2007.

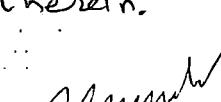
  
DEPUTY REGISTRAR

kv

20.3.2007

Mr. Nand Kishore, Counsel for applicant  
Mr. N.C. Goyal, Counsel for respondents

Heard. The OA is disposed of by a separate order, for the reasons recorded therein.

  
(J.P. Shukla)  
M/A

  
(Kuldip Singh)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,  
JAIPUR BENCH

Jaipur, this the 20<sup>th</sup> day of March, 2007

ORIGINAL APPLICATION No.179/2005

CORAM:

HON'BLE MR. KULDIP SINGH, VICE CHAIRMAN  
HON'BLE MR. J.P.SHUKLA, ADMINISTRATIVE MEMBER

Bachu Singh  
s/o Shri Ramji Lal,  
aged 44 years,  
r/o village Jodhpuria,  
Post Bandikui,  
working as Lab Assistant  
in Railway Sr. Secondary  
School, Bandikui (Raj.)

.. Applicant

(By Advocate: Shri Nand Kishore)

Versus

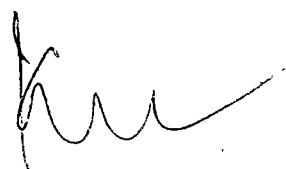
1. Union of India through  
General Manager,  
North Western Railway,  
Hasanpura Road, Jaipur.
2. The Divisional Railway Manager,  
North Western Railway,  
Power House Road,  
Jaipur.

.. Respondents

(By Advocate: Shri N.C.Goyal)

O R D E R (ORAL)

The applicant has filed this OA as he has been  
denied selection as Clerk from rankers quota of 33 1/3



%. The applicant submits that he was initially engaged as substitute Lab Attendant and was granted temporary status w.e.f. 1.1.80. Thereafter the applicant was appointed as Faras in the scale of Rs. 196-232 on regular basis as temporary employee vide Ann.A4. However, he was deputed to work as Lab Attendant on purely adhoc basis for a period of 3 months vide Ann.A5 wherein it was specifically mentioned that this arrangement to work as Lab Attendant is purely temporary and the applicant will be reverted to his substantive post of Faras in his parent cadre. Subsequent to that, the applicant was posted as Peon in the scale of Rs. 196-232 vide Ann.A6 and as such he is substantive holder of the post of Peon.

Notification dated 5.10.2004 (Ann.A2) was issued stating therein that Peons in the Divisional Office and its sub offices are eligible for appearing in the selection for rankers quota of 33 1/3% to the post of Clerk. The applicant was also eligible and he applied for the same. However, the respondents wrongly declared him as not eligible to appear in the written examination for Group 'C' post mentioning that the post of the applicant is Lab Attendant and as he is working in the sub office at Railway Senior Secondary School, Bandikui, so he is not eligible to appear in the Clerk Grade examination. The applicant submits that the same has been issued without verifying the service records of the applicant.



It is further stated that the applicant had earlier filed an OA wherein interim relief was prayed that the respondents may be directed to permit the applicant to appear in the said examination and the Tribunal was pleased to grant interim relief vide order dated 5<sup>th</sup> January 2005 (Ann.A7). The applicant further submits that he has rendered more than 20 years of service and is having qualification of M.Com B.Ed but stagnated in initial grade of Group 'D' and despite the fact that he fulfils all the conditions of candidature for the post of Clerk being a substantive holder of the post of Peon, so rejection of his candidature is illegal. It is, therefore, prayed that the applicant should be considered eligible for the selection being considered vide Ann.A1 and A2.

2. The respondents have contested the OA. They have pleaded in the reply that the OA is not maintainable since the applicant has withdrawn his earlier OA, as such the same is barred by the principle of res-judicata. The respondents also did not dispute that the applicant was deputed to work as Lab Attendant on purely adhoc basis for a period of three months. It is also submitted that applicant was appointed as Lab Attendant but substantively on regular basis he was appointed as Faras and Peon. However, it is stated that since on the date of issue of notification he was working as Lab Attendant, so he is not eligible for



selection being held for 33 1/3% rankers quota for the post of LDC.

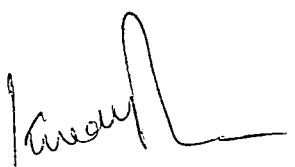
3. We have heard the learned counsel for the parties and gone through the record.

4. The facts more or less are admitted that the applicant was initially appointed as Lab Attendant but he was regularly appointed as Farash. Subsequent to that, he was holding the post of Peon on substantive basis in the Peon cadre. The <sup>plea of the respondents</sup> <sub>as Lab Attendant</sub> that the applicant was working on adhoc basis is not helpful to the respondents to prevent the applicant for appearing in the selection held pursuant to Ann.A1 and A2. Therefore, we hold that since the applicant is holding the post of Peon on substantive basis so he is eligible for appearing in the selection for 33 1/3% rankers quota for the post of Clerk. So, we allow the OA accordingly. The order dated 7.12.2004 (Ann.A1) vide which the applicant was declared not eligible for selection is quashed and set aside. We also direct that the applicant be considered eligible for selection being held vide Ann. A1 and A2. No order as to costs.

  
(J.P. SHUKLA)

Administrative Member

R/

  
(KULDIP SINGH)

Vice Chairman