

CENTRAL ADMINISTRATIVE TRIBUNAL

JAIPUR BENCH.

O.A.NO.50 OF 2005

Decided on : August 1, 2005.

**CORAM : HON'BLE MR.KULDIP SINGH, VICE CHAIRMAN &
HON'BLE MR.M.K.MISHRA, MEMBER (ADM.).**

1. Shri Pramod Kumar S/o Shri Mewa Ram, aged about 40 years, resident of Village Bhondela, Post Office Husainpur, Distt. Ferozabad (U.P), Presently residing at C/o Shri Komal Prasad 31, Opposite Sangam Cinema Railway Station Road, Sanganer, Jaipur (Raj.).
2. Shri Mahesh Kumar S/o Shri Saligram Pipal aged about 40 years, resident of 173 Anjanipuram Near Nilgiri Enclave, Albatia Road, Agra-10, Presently residing at C/o Shri Komal Prasad, 31, Opposite Sangam Cinema, Railway Station Road, Sanganer, Distt. Jaipur (Raj.).

By : Mr.Nand Kishore, Advocate.

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Applicants

Versus

1. Union of India through General Manager, North Western Railway, Hansapura Road, Jaipur.
2. Divisional Rail Manager, North Western Railway, Ajmer.

By : Mr.N.C.Goyal, Advocate.

Respondents

ORDER (oral)

KULDIP SINGH, VC

The applicant has filed this O.A seeking a direction to the respondents to include his name for engaging as fresh face substitute in Group 'D' as per provisions of Annexures A-1 and A-2, instructions issued by the Railways.

The facts in brief, as alleged by the applicant, are that the Government of India, Ministry of Railways has issued letter dated 21.6.2004, on the subject of engagement of Course Completed Act Apprentices. In the said letter it is mentioned that some of the

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Railways have in the past approached Board to clarify as to whether Course Completed Act Apprentices (for short "CCAA") can be engaged as Substitutes in Group D. It has been clarified that CCAA can be engaged as Substitutes in Group 'D' under General Manager's powers in administrative exigencies, subject to their fulfillment of the extant instructions prescribed for such engagements.

In pursuance of Annexure A-1, North Western Railway, Headquarter Jaipur issued Annexure A-2 addressed to the All the Divisional Railway Managers under it, to prepare a list of such ~~course~~ ^{new} CCAA who have been given apprenticeship training in their jurisdiction on the prescribed proforma. All such candidates **should be informed through registered letter** to submit their bio data along with their willingness for engagement as fresh face substitute, along with attested copies of documents and duly attested photo in duplicate, declaration etc. The cut off date ^{for} assessment of age of the candidates as per extant rules should be taken as 31.8.2004.

The applicants who were also of the same category i.e. CCAA have alleged that though they had also undergone the training for a period of three years, as prescribed by the Apprentice Act but they were never engaged in terms of the provisions of Annexures A-1 and A-2. They made representations also but to no avail. They further state that they also personally contacted the office of respondent no.2 but they were informed that since their records were not available and as such their names could not be considered nor they could be engaged.

It is further submitted that though all the candidates were directed to be informed through Registered letters to submit their bio

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data along with their willingness for engagement as fresh face substitute along with attested copies of documents but no such registered letter was sent to them and as such the respondent no.2 ^{ever} has ignored the right of the applicant. Thus, they have been discriminated and there is violation of Articles 14 and 16 of the Constitution of India. They, however, submit that some other persons who were similarly situated had earlier filed an O.A before the Jodhpur ^{Tribunal} Bench of the ~~Bench~~ and the Court had stayed further action for the respondents. The applicants pray that since they are also similarly situated persons, so they should also have been called for screening test for being appointed as substitute Group D employees.

The respondents are contesting the Original Application. They admit that the Annexure A-1 and Annexure A-2 have been issued and it was proposed to consider engagement of the fresh hand substitutes in Group D category from amongst the CCAA who are otherwise eligible for such engagement as per extant rules. The letter dated 30.8.2004 was issued in terms of the letter dated 21.6.2004 and thus the respondent no.2 issued notice dated 25.9.2004 for conducting the screening but the applicants did not come with their original relevant documents before the screening committee. The residential addresses of the applicants are Firozabad and Agra which do not fall under the territorial jurisdiction of this Tribunal. The respondents simply say that since records of the applicants were not available, so no notice could be sent. They deny receipt of the representations sent by the applicants.

We have heard the learned counsel for the parties and perused the material on the file.

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Learned counsel for the applicant submitted that since the Annexures A-1 and A-2 require that all those candidates who are CCAA are to be informed by Registered Post but no notice has been sent to them by registered post to see to it that some of the persons are ignored and instead fresh faces candidates are engaged. The learned counsel appearing for the respondents submitted that since the applicants did not appear with their testimonials and original record showing that they are qualified CCAA so their screening could not be done. The learned counsel for the respondents also referred to Annexure R-1 saying that notice had been displayed on the notice board and as such it is submitted that since wide publicity has been given to the candidates to appear for screening with their documents and applicants having failed to appear their case could not be considered and, thus, there is no fault on the part of the department.

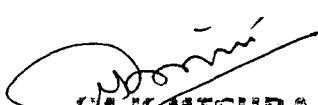
It is undisputed that in terms of instructions given in Annexures A-1 and A-2, all the CCAs are to be noticed / informed by registered post but the same does not appear to have been done, as no registered letter had either been sent or reached the applicants. So, it is to be taken as if the procedure adopted by the respondents has not been followed by them ^{elsewhere} as required in terms of the instructions contained in Annexures A-1 and A-2.

Though in the reply it is pleaded that the applicants are residents of other states and wider publicity had already been given and since their addresses were not available as record is not available and as such they could not be notified. In our view this contention has no merit as it was duty of the respondents to notify even if the applicants had changed their addresses or live somewhere else at the



time of issuance of the notification, and atleast registered letter would have been returned to the department and a presumption could have been raised that due information has been actually been given to applicants. On our query as to whether any record is maintained for sending registered letters to CCAAs, learned counsel for the respondents was fair enough to say that there was none. So we have no hesitation in holding that proper notice was not sent to the *they could not appear when screening was held, hence* applicants and as such we are of the considered view that this O.A. deserves to be allowed. We may also notice that at the time of issuance of notice in this O.A. by an interim order, directions were issued to the extent that the interest of justice would be met if two posts are kept vacant till the next date of hearing which interim order has continued till date and thus two posts are available with the respondents.

In view of the above, this O.A is allowed with direction to the respondents that they will call the applicants for screening and if they *are otherwise not* are eligible and found fit and are within the age limit as per the extant instructions, they should be offered appointment as per Annexures A-1 and A-2. So, the O.A. Is allowed only to this extent. No order as to costs. These directions may be complied with within a period of 3 months from the date of receipt of copy of this order.



(M.K.MISHRA)
MEMBER (ADM.)



(KULDIP SINGH)
VICE CHAIRMAN

HC*

August 1,2005