

NOTES OF THE REGISTRY

ORDERS OF THE TRIBUNAL

OA No.120/2007.

29.05.2007.

Mr. C. B. Sharma counsel for the applicant.

Heard. The OA has been disposed of by a separate order.

(TARSEM LAL)
ADMINISTRATIVE MEMBER

ADMINISTRATIVE MEMBER

(KULDIP SINGH)
VICE CHA

P.C./

MEMORIALS

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TODAY'S WORD

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YÜNTAKA AND SULTAN TAYEB KHODA ARE ALSO CALLED
SULTAN KHODA. YÜNTAKA AND SULTAN TAYEB KHODA
ARE BROTHERS. SULTAN KHODA IS THE ELDER.

CESTIA LIMA, E.
MAGNETICUS 1804.

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CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH

OA No.120/2007.

Jaipur, this the 29th day of May, 2007.

CORAM : Hon'ble Mr. Kuldip Singh, Vice Chairman.
Hon'ble Mr. Tarsem Lal, Administrative Member.

Jitendra Kumar Bhargava
S/o Shri Vidhya Prasad Bhargava
Aged about 32 years,
R/o village & Post Khanda Sharol (Shahbad)
District Baran

... Applicant.

By Advocate : Mr. C. B. Sharma.

Vs.

1. Union of India through
Secretary to the Govt. of India,
Department of Posts,
Ministry of Communication & Information Technology,
Dak Bhawan, New Delhi 110 001.
2. Post Master General,
Rajasthan Southern Region,
Ajmer 305001.
3. Sr. Superintendent of Post Offices,
Kota Postal Division,
Kota 324001.
4. Inspector of Post Offices,
Sub Division (North)
Baran (Rajasthan).

... Respondents.

: O R D E R (ORAL) :

Heard the Learned Counsel for the applicant.

2. The applicant was appointed to the post of Extra Departmental Mail Carrier, Khanda, Sharol Branch Post Office on 14.09.1998. On 11.06.1999, the applicant was served with a notice for termination of his services



which was challenged before this Tribunal and the Tribunal has passed an order staying the order of termination. The department had gone into the writ petition before the Hon'ble High Court which was disposed of in the following terms:-

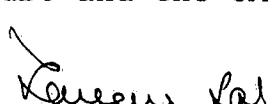
"The petitioners are directed to reinstate the respondents in service forthwith with all consequential benefits except pay. They will not be entitled for pay for the period he remained out of job on the principal of "No Work No Pay"."

3. Consequent to that, the department passed an order Annexure A/8 whereby the applicant was taken back on duty on the post of EDMC (GDS Mail Carrier) Khanda Sahrol B.O. (Shahabad) with immediate effect with all consequential benefits except TRCA. It was specifically held that he will not be entitled for any TRCA for the period he remained absent from duty on the principle of "No Work No Pay". The applicant now alleges that the department had ~~conducted~~ taken examination for the post of Postman but the candidature of the applicant has been rejected vide impugned order Annexure A/1 on the ground that he had not completed actual service of a period of 5 years. He has served for a period from 14.09.1998 to 21.05.2002 which comes to three years and 8 months and 8 days. After joining from 07.06.2006 to 31.12.2006 he has served 6 months and 24 days. But as per the requirement, the applicant was supposed to serve a 5 years regular service as on 1.1.2007 and since the applicant did not complete the 5 years regular service as on 1.1.2007 the



candidature of the applicant was rightly rejected. Learned Counsel for the applicant submits that since the Hon'ble High Court had directed that the applicant shall be given all consequential benefits except pay so the applicant deemed to have been on duty during the intervening period also and should be treated as he has completed 5 years of regular service. As such, he is eligible to appear in the examination for the post of Postman and his candidature has been rejected arbitrarily.

4. In our view, the Recruitment Rule for the post of Postman specifically says that the candidate should have been a Regular 5 years' service. Since the Hon'ble High Court itself has said that the applicant shall not be paid for the intervening period he remained out of job on the Principle of 'No Work No Pay' so the intervening period though to be treated as service for other purposes but for the purpose of Recruitment Rule the applicant is required to have a regular 5 years service which the applicant does not have as he has not been paid salary for the same. So we find that the order passed by the Department cannot be termed as arbitrary or the illegal order. Same do not require any interference by this Court and the OA is dismissed in limine.


 Tarsem Lal
 (TARSEM LAL)
 ADMINISTRATIVE MEMBER


 Kuldip Singh
 (KULDIP SINGH)
 VICE CHAIRMAN