

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR**

ORIGINAL APPLICATION NO. 799/2012

Date of Order: 16.04.2015

CORAM

**Hon'ble Mr. Justice Harun-Ul-Rashid, Judicial Member
Hon'ble Mr. R. Ramanujam, Administrative Member**

Moti Lal Meena S/o Shri Gajan Ram Meena aged about 51 years, r/o village and post Jhareda, the. Hindaun, District Karauli, presently working as E.D.D.A. Jahreda, Dist. Karauli.

.....Applicant

(Mr. P.N. Jatti counsel for the applicant)


Versus

1. Union of India through the Secretary to the Govt. of India, Department of posts, Sansad Marg, New Delhi.
2. Chief Post Master General, Rajasthan Circle, Jaipur-7.
3. Superintendent Post Offices, Sawai Madhopur, Dn., Sawai Madhopur.
4. Sh. Madan Lal Bairwa, GDS BPM, Makholi (Chakeri), Sawai Madhopur, Divisional Office, Sawai Madhopur.

.....Respondents.

(Mr. Mukesh Agarwal counsel for the respondents No. 1 to 3)

(None present for Pvt. Respondents No. 4.)



ORDER


(Per : Mr. R. Ramanujam, Administrative Member)


The applicant is a Gramin Dak Sevak (GDS) working as E.D.D.A. in Jhareda, District-Karauli. The applicant submits that as per seniority list of GDS of Sawai Madhopur Postal Division, his name appears at Sl. No. 122 (Annexure-A/2). The seniority list also shows his date of entry into the service as 02/01/1979 and his date of birth as 01/07/1961. He is aggrieved by the impugned order by which his junior Shri Madan Lal Bairwa whose name appears at Sl. No. 153 of the said list and whose date of appointment to service is 09/08/1979 has been promoted to the cadre Group 'D' (NTC) in Sawai Madhopur (Annexure-A/1). The applicant claims that he has a clean record in terms of his work and conduct and the order of promotion of his junior overlooking his claims is arbitrary and unjustified. He has, therefore, prayed that the impugned order of promotion of his junior may be set aside and the respondents be directed to promote him instead, against the said vacancy.

2. The respondents in their reply have stated that the vacancies of Group 'D' (MTS) in Sawai Madhopur postal division are filled on the basis of selection cum seniority. There was one vacancy under the OC category for the year 2011 which was required to be filled from among the persons belonging to the GDS. As per the recruitment rules, the age limit for appointment to the said post is 50 years as on first day of January of year of the vacancy. A meeting of DPC was duly held for selection of persons for the said post. The DPC selected respondent No. 4 Shri Madan Lal Bairwa as he had not completed 50 years of age as on 01/01/2011. According to the respondents, the applicant had crossed the maximum age limit of 50 years on 01/01/2011 and therefore was overaged for the said post. In support of this contention, the respondents have filed Annexure-R/4 which is an amended seniority list of GDS belonging to the Sawai Madhopur postal division as on 01/01/2011. The name of the applicant appears at serial No. 122 of this list wherein his date of birth is shown as 01/07/1960.

3. We have heard the learned counsels for applicant as well as respondents and perused the documents on record. It appears to be a case of disputed date of birth rather than of a dispute regarding promotion. Indeed, if the applicant had been eligible in terms of his correct date of birth, his case would have been considered by the DPC. Clearly, the date of birth as entered in the service records of the applicant and taken into account by the DPC is 01/09/1960 and not 01/09/1961. The date of birth shown in Annexure-A/2 filed by the applicant could be dismissed as a typographical error unless a strong evidence is adduced by the applicant to show that the date of birth as entered in his service records is 01/07/1961. Applicant has failed to produce any document as evidence to show that the date of birth as recorded in his service records is 01/07/1961 and not 01/07/1960 as indicated in annexure R/4.

4. In view of the above, the applicant could not have any legitimate grievance regarding the promotion of his junior who has been found eligible under relevant recruitment rules and also assessed as suitable by the DPC. Accordingly, we find no merit in the arguments submitted on behalf of the applicant for the reliefs prayed for in the application. The OA is misleading w.r.t. relevant facts and must fail. We, therefore, dismiss the OA with no order as to costs.


(R.RAMANUJAM)
MEMBER (A)


(JUSTICE HARUN-UL-RASHID)
MEMBER (J)