

**Central Administrative Tribunal
Principal Bench, New Delhi.**

OA-3088/2017

Reserved on : 11.05.2018.

Pronounced on : 17.05.2018.

**Hon'ble Mr. Raj Vir Sharma, Member (J)
Hon'ble Ms. Praveen Mahajan, Member (A)**

Sh. Brahmprakash Sharma, 28 years
S/o Sh. Ravi Datt Sharma,
R/o H.No. F235 Tekhand,
Okhla Industrial Area Phase-1,
New Delhi-110020.

..... Applicant

(Applicant in person)

Versus

Union of India & Others, through

1. The Secretary,
Ministry of Mines,
3rd Floor, Shastri Bhawan,
New Delhi.
2. Director General,
Geological Survey of India,
Central Headquarters, Kolkata.
3. Additional Director General,
Geological Survey of India,
Eastern Region, Kolkata.
4. Regional Director,
Staff Selection Commission,
(Northern Region) Lodhi Road,
New Delhi. Respondents

(through Sh. Hanu Bhaskar, Advocate)

O R D E R

Ms. Praveen Mahajan, Member (A)

Briefly stated, the facts of the current O.A. are that the applicant applied for Staff Selection Commission Combined

Graduate Level Examination, 2015 for recruitment to various central government job vacancies. Based on the result of this examination, the applicant was selected for the post of Assistant under Post Code No.1 with grade pay of Rs.4200/- and was nominated to Ministry of Mines, Shastri Bhawan, New Delhi on 27.07.2016 by Staff Selection Commission. The applicant submits that he came to know that his dossier had been sent to the Geological Survey of India (GSI), Kolkata and the offer of appointment will be issued from there. But, the applicant did not receive any letter in this regard. The applicant contacted GSI, Kolkata over phone on 08.03.2017 and was told that he was issued offer of appointment by GSI Eastern Region Kolkata vide Speed Post No. EW005718031IN. Since the offer of appointment letter was not received by him, the applicant visited the concerned Post Master on 09.03.2017 to enquire about the matter. He was informed by the Post Master that his article had been delivered to someone else on 07.10.2016.

2. The applicant then approached the GSI Eastern Region, Kolkata and requested them to allow him to join there. The applicant also made representations dated 14.03.2017, 15.03.2017 and 16.03.2017 to the respondents. On 31.03.2017, the GSI Eastern Region Kolkata cancelled the appointment of the applicant without affording him a second and last opportunity for joining his post.

3. On 03.04.2017, the applicant represented to ADG & HOD GSI Eastern Region Kolkata for giving him second opportunity of joining. Getting no response, the applicant again represented to DDG (P&A) GSI CHQ Kolkata on 10.04.2017. The applicant received a letter dated 13.06.2017 from the Director General GSI CHQ Kolkata declining his request for revival of offer of appointment due to lapse of six months time from the date of issue of offer of appointment. On 29.05.2017, the applicant represented to the Secretary, Ministry of Mines, Delhi for revival of his offer of appointment, who on 27.06.2017 rejected his request, and issued the impugned order.

4. The applicant submits that he was not issued any reminder before cancellation of his offer of appointment. Aggrieved by the arbitrary action of the respondents, the applicant has filed the O.A. seeking the following relief:-

- “(i) To direct the respondents to give joining to the applicant for the post of Assistant in Ministry of Mines.
- (ii) To award all consequential benefits to the applicant.
- (iii) To award salary to the applicant since when he first appeared for joining but was not allowed to join till date.
- (iv) To award exemplary cost on the respondents for causing undue harassment.
- (v) To pass any further relief or reliefs as this Hon’ble Tribunal may deem fit and proper in the facts and circumstances of the case.”

5. The applicant has referred to DoP&T O.M. dated 08.01.2014 in support of his claim. He has also relied upon DoP&T letter No.

7/15/2016-CS.I(A) dated 28.04.2017 and letter No. R.II-25/2014-Rectt.(194 DASIs) dated 20.05.2015 pointing out that in case of non reporting of a candidate, it is incumbent upon the respondents to send him/her a reminder through registered post with AD, which was not done in his case.

6. In the counter to the OA, the respondents state that the Geological Survey of India, Eastern Region had got seven dossiers including that of the applicant from the Central Headquarters, GSI vide their letter No. A-12011/DR/Assistant/2015/15A dated 19.09.2016. The same was received by them on 20.09.2016 for issuing offers of appointment to the post of Assistant to the selected candidates. All the seven persons were issued offers of appointment by speed post on 03.10.2016. Only one offer of appointment in respect of Sh. Subhash Kumar was returned back by the concerned Post Office, which was again sent to him. Subsequently, Sh. Subhash Kumar submitted a representation to the office (within the stipulated time for joining) for one month's extension for joining, which was allowed. Out of the seven selected candidates only, Sh. Subhash Kumar, Ms. Rachana Rani and Sh. Navneet Kumar Singh joined the office of the respondents, and no other candidate from amongst the select list, either joined or sent a representation for extension of joining time.

7. The respondents further submit that the applicant visited their office after a lapse of almost five and half months (14.03.2017) after

knowing about his selection, stating that he had not received any offer of appointment till date. He informed the respondents that he had come to know that his appointment letter has been delivered to someone else and it was a case of wrong delivery. The applicant also mentioned the Speed Post No. vide which the offer of appointment was sent to him. This, they state, is only possible if the applicant had himself received the speed post letter or got to know about it from his relatives, who purportedly, received the said letter. There was also a possibility that the number was collected from the records of the respondents at Eastern Region. Be that as it may, the respondents aver that the applicant's letter for appointment clearly mentioned that he had to join Kalkata within 30 days, failing which the offer of appointment will be treated as cancelled and withdrawn which is exactly what has been done on 31.03.2017.

8. We have gone through the facts of the case, heard the applicant in person and considered the arguments advanced by the learned counsel for the respondents Sh. Hanu Bhaskar.

9. A perusal of the records indicates that the applicant knew about the offer of appointment issued to him by the respondents, as early as 03.10.2016. This fact is evident from the copy of register relied upon by the respondents, which is available at page-53 of the paper-book wherein the applicant's name figures at S.No. 1042. This fact is not disputed by the applicant. The applicant, however, has

contended that though he knew about this fact but he could not obtain a copy of the appointment letter during his visit to respondents' office, since he was told that the same can only be sent, to him by post. It seems unlikely that someone desperately in search of a job, would wait patiently for a period of five months before trying to find out the reason for non-receipt of the letter of appointment even after knowing that he stood selected for the post.

10. The plea that the appointment letter was wrongly delivered and deliberately not given to him by his relatives/neighbors is not very convincing. The only plausible explanation, as suggested by the learned counsel for the respondents during the course of arguments, is that perhaps he was not very keen to join at Kalkata and was exploring other career avenues as well. It cannot be a coincidence that the applicant started making enquiries about the appointment letter only after he got to know about the cancellation of the offer of appointment on 03.04.2017.

11. One of the points raised by the applicant during the course of hearing was that the respondents failed to send him a reminder, as mandated by DoP&T. The applicant relied upon para-9 of O.M. dated 01.01.2014 (DoP&T), which states that:-

"If the candidate fails to report for duty or there is no response or the Offer is declined, after a registered reminder, the Offer of appointment should formally be cancelled and the candidate be

informed accordingly. **The dossier of Shri Rohit Kumar should be returned thereafter to the Regional Office of Staff Selection Commission directly under intimation to this Department** after placing a copy each of the offer of appointment, reminder thereof and the cancellation memo, in his dossier. The dossier should be returned under the signature of the officer to whom the same were sent in your office. He should also sign the list of dossier(s) which is returned with the letter."

However, this para cannot be read in isolation. It has to be read along with para-7 of the same O.M., wherein it is mentioned that:-

"7. At least five weeks time from the date of issue of the Offer of Appointment should be given to the candidate to respond to the Offer of appointment. A **registered reminder may be sent immediately after the expiry of five weeks time, if necessary**. If the candidate does not join duty within 3 months from the date of the first letter, his candidature may be cancelled. However, if the candidate further makes a request for extension of joining time and on consideration by the Cadre Unit, it is decided to grant him extension beyond 3 months, he/she may be asked to join within the stipulated time and he/she may also be informed that on joining the post his/her seniority would be determined as per provision made in DOP&T O.M. No. 9/23/71-Estt.(D) dated 6.6.78 as amended vide O.M. No. 35015/2/93-Estt(B) dated 9.8.1995."

It is laid down in the O.M. that reminder can be sent after expiry of 05 weeks, if considered necessary. It is not a mandatory requirement as (wrongly) interpreted by the applicant. The 2nd O.M. dated 20.05.2015, relied upon by the applicant also does not come to his aid. An instruction or guideline issued by the competent authority has to be read in entirety and understood accordingly. No inference can be drawn by picking up phrases and sentences out of context.

12. The applicant was present in the office of the respondents when the letter of appointment was issued to him on 03.10.2016. If the letter was not received on time, he should have reacted within a

reasonable time to know the fate of the letter knowing fully well that the job applied for was only an appointment letter away. There is no apparent explanation for his delayed reaction. The defense put forth by him is on a weak footing and his reliance on the DoP&T Circulars is totally misplaced.

13. It is indeed unfortunate that despite having qualified the exam, the applicant, (may be) due to his vacillating attitude missed the bus. However, not having joined the department on time, the applicant cannot claim any right to be allowed a second chance to join the respondents. The respondents, by the impugned order, have merely adhered to the time limit, specified in the appointment letter. They cannot be faulted for following the laid down instructions. We have no hesitation in concluding that there is no infirmity or illegality on part of the respondents while issuing the impugned order. The O.A. is devoid of merit and needs no intervention by this Tribunal. No costs.

(Praveen Mahajan)
Member (A)

(Raj Vir Sharma)
Member (J)

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