

**Central Administrative Tribunal  
Jaipur Bench, Jaipur**

**O.A. No. 238/2013**

Reserved on: 27.03.2019  
Pronounced on: 05.04.2013

**Hon'ble Mr. Suresh Kumar Monga, Member (J)  
Hon'ble Mr. A. Mukhopadhyaya, Member (A)**

Radha Mohan Jayaswal S/o Shri Ram Niwas Ji, aged about 60 years, R/o Old Ghat, Khaniya Road, Jaipur, at present working as EDMC Cleaner, Dak Vahan Seva, Jaipur, GPO Garrage, Jaipur.

...Applicant.

(By Advocate: Shri Vikash Pareek for Ms. Ankita Mishra)

Versus

1. Union of India, through its Secretary, Ministry of Communication, Department of Posts, Sanchar Bhawan, New Delhi.
2. The Chief Post Master General, PGMTD Office, Sardar Patel Marg, Jaipur.
3. Sr. Supdt of Post Offices, Jaipur City Division, Jaipur.

...Respondents.

(By Advocate: Shri N.C.Goyal)

**ORDER**

**Per: A. Mukhopadhyaya, Member (A):**

The brief facts relating to this Original Application, (OA), are that the applicant is aggrieved by the action of the respondents in not giving him appointment on a Group D category post although they were directed by this Tribunal in OA 08/2010 to consider his

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case on submission of his representation to this effect within 15 days of the Tribunal's order dated 03.02.2010; (Annexure A/2). He states that although he did submit his representation dated 17.02.2010 within the stipulated period, this was rejected vide the respondents' order of 22.09.2010 on the incorrect ground that he did not submit his representation within time. On this, the applicant again filed OA No.209/2011 against the respondents and this was disposed of vide this Tribunal's order of 26.05.2011, (Annexure A/6), with a direction to the respondents to verify whether the representation had been sent by the applicant on 17.02.2010, and if so, to consider the same and pass a reasoned and speaking order in accordance with the observations made in the order passed by this Tribunal on the applicant's earlier OA No.08/2010; (Annexure A/2). The applicant contends that the respondents thereafter rejected his representation vide their order dated 12.09.2012, (Annexure A/1 – the impugned order), wrongly stating that he did not possess the requisite the educational qualifications, (8<sup>th</sup> class passed), till after the time that he became overage for the appointment. Aggrieved by this action of the respondents, the applicant has approached this Tribunal seeking the following relief:-

- (i) That the respondents be directed to consider and decide the representation of the applicant on merits and quash the order passed by the respondents on 12.09.2012, (Annexure A/1).

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- (ii) That that respondents be directed to appoint the applicant on the post of Group-D or promote him on the post of Postman w.e.f. the date his juniors have been given the said benefits with all consequential benefits.
- (iii) Costs of the O.A. be awarded to the applicant.

Any other order or direction which is deemed fit and proper be passed in favour of the applicant in the larger interest of the equity justice and law.

2. In reply, the respondents have drawn the attention of this Tribunal to the order dated 03.02.2010 in OA No.08/2010, (Annexure A/2), as placed on record by the applicant himself. They point out that the Tribunal disposed of this OA as follows:

In view of the categorical finding, as noticed above, no relief can be granted to the applicant. However, learned counsel for the applicant has drawn our attention to notification dated 26.10.2009 (Annexure A/5) whereby the respondents have taken steps for filling up the vacancy of Group 'D' for the year 2006-2007 and 2008 and submits that at least the case of the applicant could have been considered for the vacancy as notified vide this notification by granting relaxation of age to the applicant. Since this is not the case set up by the applicant in this OA, as such no relief can be granted to the applicant. In any case, if the applicant has any grievance regarding notification date 26.10.2009 (Annexure A/5), it will be open for him to file appropriate representation before the appropriate authority within 15 days from today. In case such representation is filed within the aforesaid period, in that eventuality, the appropriate authority is directed to dispose of the representation of the applicant by passing a reasoned & speaking order in accordance with rules within a period of two

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months from the date of receipt of a copy of the representation.

3. The respondents state that they complied with the directions of the Tribunal and further that Respondent No.3 vide letter dated 22.09.2010, (para 8 of reply refers), informed the applicant that he had not submitted any representation to the appropriate authorities within the stipulated period and therefore no action was required to be taken; (Annexure A/5). On the applicant filing another OA No.209/2011 on this count and this Tribunal passing orders on the same on 26.05.2011, (Annexure A/6), the respondents again complied with the Tribunal's directions to verify whether the representation had been sent by the applicant on 17.02.2010 as claimed by him, and followed up on this by asking the applicant, vide their letter of 17.05.2012, (para 10 of reply refers), to submit his representation within 15 days from the date of receipt of this letter. The respondents state that the applicant thereupon submitted his representation on 26.05.2012 and that this was duly considered and rejected vide the impugned order of 12.09.2012, (Annexure A/1), with a detailed and speaking order passed after "**considering all the facts and relevant rules on the subject**"; (para 1 of para wise reply to OA refers).

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4. As regards the question of the applicant not possessing the requisite qualifications, (8<sup>th</sup> class passed), for appointment on a Group D post on 01.07.2004, the respondents contend that the applicant, who was born on 03.04.1951, (impugned order at Annexure A/1 refers), qualified the 8<sup>th</sup> standard only in the year 2005-2006; (para 4.1 of para wise reply refers). The notification of 26.10.2009 referred to by the applicant related to an examination to be held on 29.11.2009 for promotion from Group D to Postman cadre and GDS to Postman cadre and not for appointment to the post of Group D as stated by the applicant; (para 4.3 of para wise reply refers).

5. The respondents contend that the applicant submitted the certificate/marksheet relating to passing the 8<sup>th</sup> class in the Respondent No.3 office only on 19.10.2006 and therefore, since the date of determining eligible age was 1<sup>st</sup> July of the year in which the recruitment was to be made, even had a selection for the vacancy been held in the year 2006 "**then also the applicant would have become overage and not eligible for consideration**"; (para 4.7 of para wise reply refers).

6. Learned counsels for the applicant and respondents were heard and the material available on record was perused.

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7. A plain reading of this Tribunal's order in OA No.08/2010, (Annexure A/2), followed up by its order in OA No.209/2011 of 26.05.2011, (Annexure A/6), and finally the impugned order of 12.09.2012, (Annexure A/1), supports the contentions of the respondents fully that the applicant did not possess the requisite educational qualifications for appointment to a Group D post before he became overage for the same. It has not been disputed that the applicant's date of birth is 03.04.1951 as stated in the impugned order, (Annexure A/1), and that therefore he had crossed the maximum age of 53 years for appointment in the OBC category to Group D on the reference date of 1<sup>st</sup> July 2004. Thus, even if he obtained a certificate of passing 8<sup>th</sup> class on 18.05.2006 as stated by the respondents at para 4.7 of the reply and not denied by the applicant, he has never been in a position where he possessed the requisite educational qualifications for appointment on a Group D post before becoming overage for such appointment. This position has also been noticed by this Tribunal in its order dated 03.02.2010, (para 2 of order at Annexure A/2 refers). Thus no case is made out in favour of the applicant in this matter. A perusal of the impugned order of 12.09.2012, (Annexure A/1), also shows that it is both detailed and reasoned and the applicant has not been able to controvert the factual or legal basis of this order in any meaningful manner.

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8. We therefore find no merit or force in this O.A. which is dismissed.

9. There will be no order on costs.

(A.Mukhopadhyaya)  
Member (A)

(Suresh Kumar Monga)  
Member (J)

/kdr/