

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

LIBRARY

No.O.A.350/01022/2014

Date of order : 15.01.2016

Present : Hon'ble Mrs. Bidisha Banerjee, Judicial Member

Hon'ble Ms. Jaya Das Gupta, Administrative Member.

NARAYAN DEBNATH

Vs.

UNION OF INDIA & OTHERS
(M/O AGRICULTURE)

For the applicants : Mr.T. Pal, counsel

For the respondents : Mr. L.K. Chatterjee, counsel

ORDER

Per Ms. J. Das Gupta, A.M.

This application has been filed under Section 19 of Administrative Tribunals Act, 1985 seeking the following reliefs:-

"a) A Rule upon the Respondents to show cause as to why they should not be directed to appoint the Applicant in the post of Peon in the office of the Respondent No.3 in the scale of Rs.2550-3200 with effect from 5th July, 2000 or 1st August, 2000 (with benefits of seniority and financial gains) in pursuance of the office order dated 4th January, 2000 by the Respondent No.3 under direction of the Respondent No.1 and 2 and to make the Rule absolute after hearing such causes shown, if any;

b) An order commanding the Respondents their officers, agents, subordinates to produce or cause to be produced the records relating to the appointment of the Applicant in the post of Peon in the office of the Respondent No-3 as per the said office order dated 4th January, 2000 by the Respondent No-3 as per direction of the Respondent No-2;

c) And such other or further order or orders as this Applicant is found to be entitled to."

2. It is the contention of the applicant that though he was selected against a Group 'D' post by the authorities, no appointment letter has still been issued to him. Hence, this O.A.

a) Such Selection Order dated 04.01.2000 (Annexure A-5) is set out below:-

"Dr. S.K. Biswas
Director

DIRECTORATE OF JUTE DEVELOPMENT
GOVERNMENT OF INDIA
MINISTRY OF AGRICULTURE
(DEPTT. OF AGRI & COOPERATION)
NIZAM PALACE CAMPUS

No.A15-423/99

234/4, ACHARYA JAGADISH CHANDRA BOSE ROAD
CALCUTTA-700 020

Dated the 4th January, 2000

OFFICE ORDER

Shri Narayan Debnath, Son of Shri N. Debnath, 28/J, Baghajatin, Calcutta-700086 is hereby informed that he has been selected for appointment to the post of

Peon in this Directorate in the scale of pay of Rs.2550-55-2660-60-3200 plus usual allowances as admissible to the Central Government employees posted at Calcutta. He is now requested to fill up the enclosed "Attestation Form", in triplicate, and a Medical Certificate of fitness along with a certificate to be obtained from the Leprosy Department of the Government Hospital as required for the first entry into Government Service, in duplicate, from a Medical Officer not below the rank of an Assistant Civil Surgeon and send it to the undersigned as early as possible for further action at this end.

However, this Office Order should not be treated as a guarantee to his appointment to the post of Peon in this Directorate.

Director

Shri Narayan Debnath,
S/O N. Debnath
28/J, Baghajatin,
Calcutta-700086. "

Eventually the applicant was allowed to function in the above office on contractual basis and then his services in the contractual service has also been discontinued. Hence, he has approached C.A.T. demanding that as per his selection, appointment to the post of Group 'D' in the Office of the Directorate of Jute Development, be made.

b) Per contra, the respondents submit that though the applicant had been selected for appointment, no appointment order was issued taking into consideration the order of Government of India, Ministry of Finance, Department of Expenditure dated 05.08.1999(Annexure R-1) which imposed a ban on filling up of a vacant post, the relevant portion of which is set out below:-

"(2) Ban on filling up of vacant posts

Every Ministry/Department shall undertake a review of all the pots which are lying vacant in the Ministry/Department and in the Attached and Subordinate Offices, etc, in consultation with the Ministry of Finance (Deptt. of Expenditure). FAs will ensure that the review is completed in a time bound manner and full details of vacant posts in their respective Ministries etc., are available. Till the review is completed no vacant posts shall be filled up except with the approval of the Ministry of Finance (Department of Expenditure)."

c) Further, the very Selection Order dated 04.01.2000(supra) makes it clear that the office order should not be treated as a guarantee to his appointment to the post of Peon in the directorate.

d) The respondents further went on to say that ultimately when recommendations of the VIth Central Pay Commission was made effective on 01.01.2006, an order dated 30.04.2010 was issued by the Ministry of Personnel, Public Grievances and Pension to the effect that there will be no further recruitment of Group 'D' posts. The existing Group 'D' post will be placed in Group 'C' in the Pay Band-1 with Grade Pay of Rs.1800/- as multi-skilling employees. As there was no Group 'D' post from 01.01.2006, the applicant could not be considered for filling up of erstwhile vacant post of Group 'D' and, therefore, the O.A. should be dismissed.

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3. Heard both.

4. It appears from the averments that though there was a ban on filling up of vacant posts as issued by Ministry of Finance, Department of Expenditure, New Delhi dated 5th August, 1999(Annexure R-1), on 21st September, 1999, the Under Secretary, Ministry of Agriculture, Government of India (Annexure R-3) had intimated the Director of Directorate of Jute Development, Government of India, that the vacant post of Peon may be filled up immediately as a result of the meeting by the Secretary, Agriculture and Cooperation in the month of August and September, 1999. This letter from the Under Secretary was issued in pursuance of the Directorate's letter dated 17.09.1999(Annexure R-2) to allow them to complete the processing and selection of the candidates for Group 'D' so that the appointment could be issued immediately on lifting of ban. Therefore, after getting clearance from the Ministry vide their letter dated 21.09.1999, the Directorate took up the matter of selection of the applicant, Sri Narayan Debnath. A selection letter dated 04.01.2000 was issued which had been referred to before. However, finally no appointment letter could be issued by the Directorate because of the general ban operating and not getting any relaxation order from the screening committee though they requested for such consideration as per para 6.8 of the reply. As per the Government orders issued by DOP&T on 30.04.2010 as an outcome of the recommendation of the VIth Pay Commission, this being a policy matter, the applicant cannot be appointed as Group 'D' employee in the Directorate now. The work of the erstwhile Group 'D' employees can only be outsourced now through agencies as would be apparent from a perusal of Annexure R-8 which is a Memorandum of Understanding for Engagement of Group 'D' Workers on Temporary Contractual Basis between the Directorate of Jute Development, Government of India, Kolkata and S.A.S. Consultancy Services, Kolkata which came into effect from 30.08.2010.

6. Apparently the applicant has been disengaged by the agency and the authorities have no hand over the action of the agency.

7. Hence, in the above facts of the case, no relief as prayed for in the O.A. can be extended to the applicant. The O.A. is accordingly dismissed. No cost.

(Jaya Das Gupta)
Administrative Member

(Bidisha Banerjee)
Judicial Member

s.b