

Central Administrative Tribunal  
Principal Bench

OA No. 2334/2001  
MA No. 1961/2001

New Delhi, This the 14<sup>th</sup> day of May, 2002

Hon'ble Shri Govindan S. Tampi, Member (A)

Shri Sunder S/o Shri Nashib Chand  
R/o H.No.D-30, New Hira Park  
Dicchau Road, New Delhi.

... Applicant

(By Shri Yogesh Sharma, Advocate)

V E R S U S

1. Union of India through  
The General Manager  
Northern Railway  
Baroda House  
New Delhi.
2. The Divisional Railway Manager  
Northern Railway  
Firozpur.

... Respondents

(Shri R.L.Dhawan, Advocate)

O R D E R

By Hon'ble Shri Govindan S. Tampi, Member (A)

Applicant in this case seeks his re-engagement as Safaiwala and in relaxation of the requirement of educational qualification.

2. Heard S/Shri Yogesh Sharma and R.L.Dhawan, learned counsel for the applicant and the respondents respectively.

3. The applicant, born on 15.6.58, worked as Casual labourer, Northern Railway, Ludhiana from 1.2.84 to 28.3.84 and since then upto 14.7.92. He was not re-engaged thereafter, though a policy decision was taken in 1993, to absorb all hot weather watermen in other Departments. His various

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representations during 1996-97, resulted in a communication dt. 4.5.97 to the effect that his name did not appear in the list given by GM, Northern Railway and that it would be considered when recruitment is made from live casual register. In 1998, when six posts of Safaiwala were created, he reported in DRM's office, but he was denied the post, which were given to all juniors. He was asked to wait, but was advised on 31.5.2000 that his case could not be considered as he had not passed VIII class - the requisite educational qualification. Hence this OA.

4. Grounds raised in the OA and reiterated by Shri Yogesh Sharma, learned counsel for the applicant are that :-

i) his seniority position at Sl.No.1 in live casual live register should not have been overlooked;

ii) educational qualification should not have been insisted for old casual labours ;

iii) even for the freshers the qualification required was Vth class ;

iv) the applicants having worked from 84-92, qualification requirement should have been relaxed ;

v) minimum educational qualification was only for freshers ; and

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vi) all his colleagues have been duly absorbed, leaving only himself out. OA should, therefore, succeed with full reliefs to the applicant, urges Shri Yogesh Sharma.

5. In the reply, it is pointed out that the OA filed on 4.9.2001, against rejection of his case, on 28.10.98 was hit by limitation and the condonation application did not deserve any consideration. The applicant who was on Live Casual Labour Register of Firozpur Division was considered for appointment as Sanitation Safaiwala, but could not be considered as he did not have requisite educational qualification. After his disengagement in 1992, he could not be engaged as he was not senior. In 1996-97, he could not be included for re-engagement as Sanitation Safaiwala, as his name was wrongly written as Surrinder instead of Sunder. In the subsequent year, his name was not considered as he did not have the requisite educational qualification. The decision cannot be assailed, pleads Sh. Dhawan.

6. I have considered the matter. Preliminary objection on jurisdiction is rejected. Objection on limitation is also repelled by allowing MA No. 1961/01, as the circumstances indicated therein appear to be genuine. In this case, the applicant who was working from 1984-92 as casual labour, and was placed in Live Casual Labour, was not considered in 93-94 for re engagement as he was not senior, in 96-97 on account of a mistake by the Deptt. and in the next year on account of his lack of educational qualification. While the denial of

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engagement in 93, as the applicant was not senior, cannot be assailed his non-consideration in 96-97, when 61 vacancies were present, was incorrect and the denial of consideration in 1998 on the lack of educational qualification - VIIIth pass - was improper. A person who was selected and worked for as many as eight years 1984-92 could not have been denied consideration, in 1998, on the ground of educational qualifications, which could have been insisted only for freshers. Respondents have acted in an irregular manner and their action has to be set aside, in the interest of justice.

7. In the result, the OA succeeds and is accordingly allowed. Respondents are directed to consider the appointment of the applicant as Sanitary Safaiwala from '98 relaxing the requirement of educational qualification, if the application is literate in Hindi or English, keeping in mind the nature of the job. This shall be done within two months from the date of receipt of a copy of this order. The applicant will, however, be entitled to wages, as Safaiwala only from September, 2001 when he filed this OA. No costs.

(Govindan S. Tampi)  
Member (A)

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