

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH

O.A. NO.2518/2001

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New Delhi this the 21st day of October, 2002.

HON'BLE SHRI JUSTICE V.S. AGGARWAL, CHAIRMAN

HON'BLE SHRI M.P.SINGH, MEMBER (A)

Shri Pramod Kumar Shukla  
S/O Shri G.S.Shukla  
R/O J-3/771, Khirki Extension  
Malviya Nagar  
New Delhi.

...Applicant

(By Shri Vibhakar Mishra, Advocate)

-versus-

1. Union of India  
through the Chairman,  
Railway Board, Rail Bhawan  
New Delhi-110001.

2. The Divisional Railway Manager  
Delhi Division  
Northern Railway  
State Entry  
New Delhi.

3 The Divisional Personnel Officer  
Northern Railway  
New Delhi.

.....Respondents

(By Shri Rajinder Khatter, Advocate)

O R D E R (O R A L)

JUSTICE V.S.AGGARWAL:-

Applicant (Pramod Kumar Shukla) seeks quashing of the order calling upon him to appear for the suitability for promotion to the post of Head TCR/TTE and for a direction that he has already passed the said test in the year 1983 and should be exempted from undergoing the said test all over again.

2. Facts alleged are that the applicant appeared in the test conducted by the Railway Service

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Commission, Muzzafarpur for the post of Ticket Collector. He was declared successful and was posted at Mugal Sarai Railway Junction. The applicant had applied for his transfer to Delhi but had withdrawn his option before the order could be passed. On 7.4.1983, a suitability post was conducted for the post of Train Conductor. The applicant was declared successful. Thereafter, the applicant had been transferred to Delhi Railway Station. There was a controversy as to whether it was a case of mutual transfer or not. The applicant had filed OA No.400/1986 which was allowed and it was held that it was not a case of mutual transfer.

3. The applicant was not promoted to the post of Train Conductor. He was called upon to take the test for the said post. The applicant had pointed that he had already passed the said test. The applicant had preferred OA No.1142/1994 in which direction was given to consider the representation of the applicant. Orders had been passed which were adverse to the applicant. He filed OA No.1199/1996. Therein the learned Standing counsel for the respondents had made a statement that the notice of 12.4.1996 was stated to have been withdrawn.

4. The grievance of the applicant is that the he has again been called upon to take the said test

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again which he had already passed. Hence the present application has been preferred.

5. In the reply filed, the application has been contested. Reliance is being placed on the circular of the Railway Board dated 20.7.1962 that an employee on transfer to another railway could be considered for promotion to next higher grade only in accordance with the seniority position assigned to him under the normal rules. Selection for higher grade would be treated as null and void and he would be required to appear in selection along with other eligible staff. It has been pointed that when the applicant joined the Delhi Division, he was promoted to the grade of Rs.330-560 as per his seniority. It is insisted that the impugned order calling upon the applicant to undergo the test is valid and proper.

6. The short question agitated was as to whether the applicant can be called upon to take the said test which is said to have been passed by him while he was working in the Eastern Railway. Some of the decisions of this Tribunal and salient facts are not the subject matter of controversy. The first and foremost question was as to whether the transfer of the applicant from the Eastern Railway was a mutual transfer or not. The applicant had filed OA No.400/1986 which was decided on 30.6.1992. This Tribunal in unambiguous terms declared that the

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applicant had withdrawn his option before an order had been issued. Therefore, he must be deemed to have continued in the Eastern Railway and eligible for promotion to the post of Train Conductor.

7. The respondents have time and again been asking the applicant to take the said test. When he was called upon to take the test, the applicant had preferred another application in this Tribunal referred to above but at the time of hearing, it was brought to the notice of the Tribunal that the said letter had been withdrawn.

8. Our attention has been drawn further to the letter addressed by the Joint Director, Establishment, Railway Board dated 10.10.1991 to the General Managers of All Indian Railways. It clearly prescribes that an employee who had passed a suitability test once need not be called for the test again and should be eligible for promotion as and when vacancy arises.

9. These facts clearly show that the applicant had passed the said test while he was in the Eastern Railway. His transfer to Delhi from Eastern Railway is not a mutual transfer. Since he had passed the test in the Eastern Railway, in the peculiar facts of the present case, he cannot be called upon to undertake the same test all over again for the post of Train Conductor.

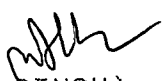
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10. No other plea was raised by the respondents.

11. For the reasons recorded above, the application is allowed and it is held that the respondents cannot, in the facts and circumstances of the present case, ask the applicant to again pass the suitability test for the post of Train Conductor. The applicant can well be considered for the post in accordance with the recruitment rules. No costs.

Announced.

  
(M.P. SINGH)  
MEMBER (A)

  
(V.S. AGGARWAL)  
CHAIRMAN

/sns/