

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH

OA No.2844/2001

NEW DELHI, THIS THE 3RD DAY OF SEPTEMBER, 2002.

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

HON'BLE MR.V.K.MAJOTRA, MEMBER(A)

Tulsi Ram Meena  
S/O Shri Sawalya Ram Meena  
Feul Khalassi, Northern Railway  
Diesel Shed, Tuglakabad  
New Delhi  
R/o Prahladpur Colony  
Badarpur, Tuglakabad  
New Delhi-110 044.

.... Applicant

(BY SHRI K.N.R.PILLAY, ADVOCATE)

vs.

1. Union of India, through  
The General Manager  
Northern Railway  
New Delhi-110 001.

2. The Divisional Railway Manager  
Northern Railway, Delhi Division  
State Entry Road  
New Delhi-110 001.

.... Respondents

(BY SHRI RAJENDER KHATTER, ADVOCATE)

ORDER (ORAL)

JUSTICE V.S.AGGARWAL:-

Applicant Tulsi Ram Meena is a Fuel Khallasi/Stores Khallasi in the Northern Railway, Diesel Shed at Tuglakabad. He was called for a written test for the next higher post of Fuel Issuer/Stores Issuer/Junior Clerk etc. on 10.4.1988. Applicant contended that even though he had passed the written test, he was not considered for promotion, but at the instance of the Divisional Railway Manager some other persons were inducted from outside the Branch which is contrary to the rules contained in Para 184 of the Indian Railway Establishment Manual (for short, hereinafter referred to as "Manual"). The applicant and one Ishwar Dass had challenged the said act of the respondents by filing OA No.1933/1996 which was disposed of by this

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Tribunal on 17.10.1997. The said OA had been allowed and it was directed that the matter should be reconsidered. If necessary, a Review Departmental Promotion Committee meeting should be set up. The operative part of the order passed by this Tribunal reads:-

" On the other hand, from the submissions of the counsel for the applicants it transpires that the challenge of the order of promotion of respondents 4, 5 & 6 is well founded and in the absence of any reply to this allegation made against, as well as the promotions made to the respondents 4 to 6, we are of the considered view that the respondents shall reconsider the case of the applicants, if necessary by holding a Review DPC, not in accordance with para 189 of the Manual but only in accordance with para 188 of the Manual. Appropriate orders of promotion shall be passed by the respondents within four weeks from the date of the receipt of a copy of this order and the applicants will be entitled to all consequential benefits, but shall be entitled to payment of arrears only with effect from 1.1.95."

2. The grievance of the applicant is that after the decision of this Tribunal, the respondents nominated a Review Departmental Promotion Committee. The Departmental Promotion Committee would normally have proceeded on the basis of the result of the earlier suitability test which had been passed by the applicant. It is contended that he was asked to pass another test which is violative of para 214 of the Manual. Hence present fresh Original Application has been filed for quashing the order dated 4.5.2001 purported to have been passed by the respondents declaring the applicant not to have been found suitable.
3. In the reply that has been filed, it has been pleaded that the posts of Tool Checkers and Fuel Issuers have been upgraded. Applicant was required to qualify in the written test and

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undergo viva voce for his empanelment. Applicant had qualified in the written test but failed to qualify in the viva voce test. Therefore, his name did not appear in the panel. It was asserted further that the test had been conducted in terms of the directions given by this Tribunal in OA No.1933/1996.

4. During the course of submissions, the learned counsel for the applicant highlighted the fact that since the applicant had already passed the test, therefore, in accordance with Para 214 of the Manual, an employee who has passed a suitability test once need not be called for a test again and would be eligible for promotion as and when vacancies arise.

5. The said contention of the learned counsel indeed is devoid of any merit. It necessarily has to be rejected.

6. Brief resume of the facts as already given above, clearly shows that in the earlier Original Application which was allowed by this Tribunal, a specific direction had been given that if necessary a Review Departmental Promotion Committee meeting should be held and the same had to be in accordance with Para 188 of the Manual. Para 188 reads as under:-

"Para-188: Lower grades in Group 'C' like Junior Clerks, Material Checkers etc. in scales such as Rs.825-1200 should be wholly filled by promotion from Group 'D' railway servants who have put in 5 years service. In the case of posts which are in the normal avenue of promotion to Group 'D' railway servants, promotion should be made from amongst the railway servants of the Department concerned in each promotion unit on the basis of seniority-cum-suitability after holding such written and/or practical tests as may be considered necessary. In the case of

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the posts which are not in the normal avenue of promotion, promotion should be made on the basis of selection after holding such written and/or practical test as may be considered necessary and from panel drawn according to prevailing rules in respect of selection posts."


This was a direction given in OA No.1933/1996 inter se between the parties. Therefore, the applicant cannot make any grievance out of it and the respondents had no option but to comply with the directions of this Tribunal in accordance with Para 188 of the Manual which provides that selection should be made by holding a written and/or practical test as may be considered necessary. Once, therefore, such a test has been held, the applicant indeed can have little grievance.

6. There is another way of looking at the matter. The applicant had taken the necessary test and thereupon if he had not qualified the same, it is too late in the day to challenge the basis of selection. He tried his luck but failed. In that view of the matter indeed we find that there is no merit in the application.

7. For these reasons, application being without merit must fail and is accordingly dismissed. No costs.

Announced.

  
(V.S. AGGARWAL)  
CHAIRMAN

  
(V.K. MAJOTRA)  
MEMBER (A)