

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.1178/98

New Delhi, this 13th day of May, 1999

Hon'ble Shri T.N. Bhat, Member(J)
Hon'ble Shri S.P. Biswas, Member(A)

Anuj Kumar
Ex.Apprentice(Mech), NE Rly Workshop
Izatnagar
c/o Vijay Veer Saxena
5A, Hasanpur Village, IPS Extn. Delhi .. Applicant
(By Shri B.S. Mainee, Advocate)

versus

Union of India, through

1. General Manager
NE Railway, Gorakhpur
New Delhi

2. Divisional Railway Manager
NE Rly, Izatnagar

3. Chief Workshop Manager
NE Rly, Izatnagar .. Respondents

(By Shri B.S. Jain, Advocate)

ORDER

Hon'ble Shri S.P. Biswas

1. Applicant claims that he has completed one year apprenticeship training from 9.5.92 to 8.5.93 but he has not been given appointment as Artisan. Consequently, he has filed this OA on 3.6.98, alongwith MA for condonation of delay in filing the OA saying that he has a continuous cause of action. The learned counsel for the applicant is placing heavy reliance on the decision of the Hon'ble Supreme Court in the case of UP State Road Transport Corpn & Anr Vs. U.P. Parivahan Nigam Shishkhs Ferozpur Sangh, SC SLJ 1995(1) 276, in which the following conditions were prescribed for making appointments to Apprentices.

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- "1. Other things being equal, a trained apprentice should be given preference over direct recruits;
2. For this, a trainee would not be required to get his name sponsored by any Employment Exchange. the decision of this Court in UOI V. Hargopal AIR 1987 SC 1227 would permit this;
3. If age bar would come in the way of the trainee, the same would be relaxed in accordance with what is stated in this regard, if any, in the concerned service rules. If the service rule be silent on this aspect, relaxation to the extent of the period for which the apprentice had undergone training would be given; and
4. The concerned training institute would maintain a list of the persons trained year-wise. The persons trained earlier would be treated as senior to the person trained later. In between the trained apprentices, preference shall be given to those who are senior"

2. Opposing the claims of the applicant on the ground of laches and delays, respondents have come with the reply that the applicant was engaged as technician apprentice on a stipend @ 300 p.m. for a period of one year in Mechanical Workshop,

Izatnagar with the stipulation that that would not confer any right on him for employment in the Railway Establishment. They would further contend that the technician apprentices trained under the Apprentices Act, 1961 in the Railway Establishment should apply against the notifications issued all over Railways for recruitment and go through the due process of selection as contained in the service Rules as it is the fundamental right of every citizen eligible for the particular post to compete for selections. Placing reliance on the Annexure R-1 Railway Board's letter dated 26.8.96, respondents would further contend that the written test and the viva-voce are the only means by which the suitability of the candidates are assessed. If the apprentices are exempted from the written test, it will be very difficult for the selection committee to decide the merit position as envisaged in the Apprentices Act vis-a-vis the other candidates who had undergone the written test. We find some force in the contention of the respondents.

3. Respondents have placed reliance on the judgement of the Hon'ble Supreme Court in CA No.5285-5328 of 1996 decided on 3.10.96 in the case of Tamil Nadu Elect. Board Vs. P.Arul & Ors. in which it has been held that all the trainees shall have to go through the process of selection provided under the Service Regulations/Rules.

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4. We find that the applicant herein is not aggrieved because of any actions on the part of respondents. The applicant's case is that the respondents have failed to offer an appointment to him as Artisan although he has undergone the Apprentice training under the appropriate Act of 1961 successfully. He had been representing to the respondents for offering him an appointment as Artisan but the respondents turned Nelson's eyes on them. The basis on which the applicant would stake his claim for appointment as an Artisan under the respondents railways is the O.M.No.E(NG)III/78-RC-1-91 dated 24.9.81 in which it has been mentioned that out of the 50% of Skilled Artisans, 25% are to be filled up from serving Semi-Skilled, Unskilled staff with certain educational qualification and the balance 25% by direct recruitment from course completed Apprentices. It is against this balance of 25% of vacancies among the Artisans that the applicant is placing his main reliance.

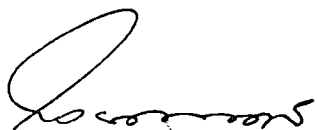
5. In dealing with similar case in OA-2684/96 decided on 9.5.97, we decided to direct the respondents to consider the case of the applicants therein for appointment to any suitable post for Apprentices in accordance with the rules and regulations laid down on the subject. In the absence of any details regarding availability of vacancies etc., it would be inappropriate for us to direct the respondents to consider the applicant for appointment against existing or future

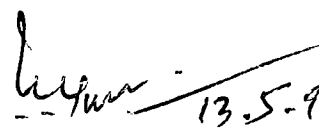
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vacancies. Under these circumstances, the only course left to us is to direct the respondents to consider the applicant's case for appointment as an Artisan or Skilled employee since he has completed the Apprentice training successfully and since cases of such candidates are required to be given preferential treatment while conducting selections.

6. In the result, we dispose of this application by directing the respondents to consider the applicant's representation dated 25.12.97, examine the same in the light of the Railway Board's Instructions dated 26.8.96, 3.12.96 respectively and decision of the Apex Court in the case of Tamil Nadu Elect. Board (supra). The respondents shall do well to communicate their decision in the matter to the applicant within a period of three months from the date of receipt of a certified copy of this order.

7. There shall be no order as to costs.


(S.P. Biswas)
Member(A)


(T.N. Bhat)
Member (J)
13.5.99

/gtv/