

Central Administrative Tribunal
Principal Bench

O.A.No.1213/95

Hon'ble Shri R.K.Ahooja, Member(A)
Hon'ble Shri Syed Khalid Idris Naqvi, Member(J)

New Delhi, this the 26th day of August, 1999

Parmod Kumar
s/o Sh. Vishnu Nath
Electric Khalasi
Delhi Division
Northern Railway
EMU, Carriage & Wagon
Ghaziabad.

... Applicant

(By Shri A.K.Bhardwaj, Advocate)

Vs.

1. Union of India through
The General Manager
Northern Railway
Baroda House House
2. The Divisional Railway Manager
Northern Railway
Delhi Division
DRM Office
Paharganj
New Delhi.
3. Asstt. Mechanical Engineer (P)
Northern Railway
Delhi Division
DRM Office
Paharganj
New Delhi.
4. Asstt. Personnel Officer
Northern Railway
Delhi Division
DRM Office
Paharganj
New Delhi.
5. Man Singh
Turner
Delhi Division
Northern Railway
EMU, Carriage & Wagon
Ghaziabad.

... Respondents

(By Shri P.M.Ahlawat, Advocate)

O R D E R (Oral)

Hon'ble Shri R.K.Ahooja, Member(A)

The applicant was working as MS Khalasi when
he appeared for the Trade Test for the post of Turner.

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The result of the Trade Test was declared on 20.4.1989. The grievance of the applicant is that even though he was senior in the list and had been declared successful in the Trade Test, the respondents not only failed to communicate the results of the Trade Test but also behind his back promoted two others, one of whom Shri Man Singh is junior to the applicant in the seniority list of MS Khalasi. Applicant has now come before the Tribunal for a direction to the respondents to promote him as Turner grade Rs.950-1500 w.e.f. the same date on which his junior, Sh. Man Singh, Respondent No.5 has been so promoted, with all consequential benefits.

2. The respondents have raised a preliminary objection that the OA is time barred. They also say that the result of the Trade Test was announced in April, 1989 and applicant has filed this OA on 10.7.1995 after a delay of over six years. On merit they submit that after the Trade Test was conducted, a representation was received from two senior persons, namely, Shri Patram and Shri Satpal, that they have not been included in the Trade Test. After their representations were considered and they were also Trade Tested one of them, Shri Patram was found fit and was promoted. The applicant cannot have a grievance against him as he was admittedly senior to the applicant in the list of MS Khalasi. However Respondent No.5, Shri Man Singh who was junior to the applicant was also promoted as he belongs to the

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Scheduled Cast and the second vacancy was a reserved vacancy.

3. The learned counsel for the applicant submits that in the result of the Trade Test, copy at Annexuer-A2, no where it has been mentioned that Man Singh belongs to a Scheduled Caste. He submits that the applicant had through out been told that Shri Man Singh was senior to him and the respondents had also given him assurance that he would also be promoted as Turner in the next vacancy. However no action has been taken by the respondents. He submits that the applicant would be satisfied if the respondents were to promote him even now as Turner on the basis of the Trade Test.

4. Admittedly, the result of the Trade Test was not communicated to the applicant in April, 1989. It appears however that both Shri Patram, senior as well as Shri Man Singh were working in the Machine Shop with the applicant and the applicant could not have been unaware of the fact that these two persons had been promoted as Turner on the basis of the April, 1989 Trade Test. Therefore, we are not convinced by the explanation given by the applicant regarding the delay in approaching the Tribunal. We therefore accept the objection that the present OA is barred by limitation. On merits also we have to accept the statement of the learned counsel for the respondents who are custodian of the service records that Shri Man Singh belongs to the Scheduled Caste. If the second post was a reserved vacancy, the applicant cannot

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claim preference for appointment vis-a-vis Respondent No.5. As regards the learned counsel for the applicant's argument, that the respondents should even now consider the applicant for promotion as Turner, we cannot give any direction, the promotion of the applicant on the basis of the Trade Test which he has passed will be governed by the Rules and Regulations of the Railway department on the subject. It is up to the applicant to make a suitable representation to the respondents in this regard.

B In the result, finding no ground to interfere, the OA is dismissed. No order as to costs.

Syed Khalid Idris Naqvi
(SYED KHALID IDRIS NAQVI)
MEMBER(J)

R.K. Ahuja
(R.K. AHOOJA)
MEMBER(A)

/RAO/