

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

O.A. No.1401/95

HON'BLE SHRI R.K. AHOOJA, MEMBER (A)
HON'BLE SHRI SYED KHALID IDRIS NAQVI, MEMBER(J)

New Delhi, this the 31st day of August, 1999

Shri Hari Kishan
S/o Shri Sheopal
Pointsman 'A'
Presently working as a Trains Clerk
under Station Superintendent, Railway Station
Loharu, Bikaner DivisionApplicant

(By Advocate: Shri B.S. Mainee)

Versus

1. The General Manager
Northern Railway
Baroda House, New Delhi
2. The Divisional Railway Manager
Northern Railway
Bikaner Division ...Respondents

(By Advocate: Shri R.L. Dhawan

O R D E R (ORAL)

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

The applicant who was appointed as a Gangman on 20.4.1979 and as a Pointsman on 1.6.86, had applied for the post of Trains Clerk. He was called for written examination held on 29.11.1992 and was also subjected to viva-voce test which was held on 24.4.1993. His grievance is that though he was qualified to be empanelled, he was not appointed as a Trains Clerk as one of the candidate Shri Tasbir Singh was wrongly empanelled as he had also qualified as Assistant Station Master (ASM) in the higher grade of Rs.1200-2040.

2. The respondents in their reply have stated that the applicant could not be considered for appointment as Trains Clerk as he did not qualify for inclusion in the panel of selected candidates.

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3. We have heard the counsel. Shri Mainee has pointed out that the applicant was at S.No.34 on the basis of the written examination and Shri Tasbir Singh was at S.No.33. The pay scale of the post of Trains Clerk is Rs.950-1500 and that of ASM Rs.1200-2040. Shri Tasbir Singh applied both for the post of ASM as well as Trains Clerk and qualified for both. Shri Tasbir Singh was also sent for training as ASM and in view of the option exercised by him, should not have been included in the panel for Trains Clerk. If a position in the panel was not taken by Shri Tasbir Singh then the applicant as next in seniority would have qualified to have his name placed in that panel. He further pointed out that the case of the applicant was taken up by the Union and as per the decision taken in the meeting, the respondents detailed the applicant for the training course for Trains Clerk, which applicant duly qualified.

4. According to Shri Mainee, the applicant could not have been detailed for training unless there had been some basis for his inclusion in the panel of Trains Clerk. Shri Dhawan on the other hand argued that the applicant, even if he was next in the line, could not claim to be placed on the panel.

5. We are unable to agree to the contention of Shri Dhawan. The pay scale of the ASM is higher than that of Trains Clerk. Only when a person does not qualify for ASM that he will opt for the post of Trains Clerk. Shri Tasbir Singh was not only selected but also was sent for training as ASM. A panel of 17 persons was there in which Shri Tasbir Singh's name should not have been included and

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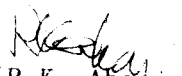
his place should have gone to the next person in order of merit. We, however, find there is some dispute regarding the claim of the applicant that he was the next person available on the basis of the viva-voce test. According to Shri Dhawan, the record is also not readily available.

6. In view of the position stated above, we dispose of this O.A. with the direction that in case the applicant was next in the merit in terms of scheme for promotion, then he should be included in the panel vis-a-vis Shri Tasvir Singh as Trains Clerk. Since he has already undergone for requisite training of Trains Clerk. In case, however, the applicant is not next in the line for promotion in the list, the applicant will have no further claim.

7. The respondents will make the necessary verification within a period of three months and take further action within a period of one month thereafter.

8. No order as to costs.

(Syed Khalid Idris Naqvi)
Member(J)


(R.K. Ahuja)
Member(A)

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