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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.2405/96

New Delhi, this 20th day of April, 2000

Hon'ble Shri Justice V.Rajagopala Reddy, VC(J)
Hon'ble Smt. Shanta Shastry, Member(A)

R.S. Kapoor
92¹² Railway Colony
Tughlakabad, New Delhi

.. Applicant

(By Shri A.K. Bhardwaj, Advocate - not present)

versus

Union of India, through

1. General Manager
Northern Railway
Baroda House, New Delhi

2. Sr. Divisional Personnel Officer
Delhi Division, DRM Office
New Delhi

3. Sr. DME/DSL, Delhi Division
Northern Railway,
Tughlakabad, New Delhi

.. Respondents

(By Shri R.L.Dhawan, Advocate)

ORDER(oral)

Hon'ble Smt. Shanta Shastry

None appears on behalf of the applicant either in person or through counsel. As the matter pertains to 1996 we have proceeded to dispose of the OA on the basis of the available material.

2. The applicant is aggrieved that having been called for a suitability test for the post of Master Craftsman in 1994, his result was not declared nor was he promoted..

3. The brief facts are: The applicant was appointed as a Fitter in the Northern Railway in 1967. In 1994, the respondents held a suitability test for 3 posts of master craftsman (electrical) grade Rs.1400-2300 on

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15.11.1994. Out of the 3 posts, two posts were meant for general category candidates and one was reserved for scheduled tribe candidate. No ST candidate was available in the zone of consideration. Against the two posts meant for the general category, two seniors of the applicant who appeared for the suitability test were selected and promoted in 1995. Against the reserved vacancy the applicant was allowed to appear along with another senior of his viz. Shri Krishan Kumar. While announcing the suitability test the respondents had made it clear vide their letter dated 1.11.94 that the applicant was called for the test against the post reserved for ST and his result would be declared only after the said post was dereserved.

4. Now it so happened that Shri Krishan Kumar who was senior to the applicant and who also appeared for the test was due to retire on 30.11.1994 i.e. in about 15 days from the date of the suitability test. Hence the applicant was placed as No.1 in the stand-by list. But when it came to dereservation of the post the selection committee had recorded that dereservation cannot be obtained during such a short period. It was therefore decided to carry forward the reservation for the ST candidate to the next suitability test. In short, the post was not dereserved as contemplated earlier but was carried forward. As such the applicant could not be considered for promotion.

5. It is the contention of the applicant that the said reserved post was lying vacant for a period of three years preceding the date of the test. As per rules the post should have been filled up through a general

category candidate after dereserving the same. The applicant's result should have been declared when two others who had appeared in the test along with him had been promoted. This act of the respondents is decried by the applicant. According to him not filling up the post of master craftsman for which suitability test was conducted on 15.11.94 by treating it as unreserved vacancy and not declaring the result of the said test is arbitrary, discriminatory and in violation of Railway Board's letter dated 12.2.1976. The letter states that "in case sufficient number of suitable candidates for reserved vacancies are not available from the proper community on any occasion of recruitment such vacancies should ~~not~~ be treated and filled up as unreserved vacancies but shall be carried forward for subsequent occasion of recruitment." The respondents have failed to follow the contents of the said letter. The applicant represented against the said action of the respondents on 21.10.95 and the applicant was directed to appear in the suitability test again afresh vide letter dated 17.3.1996 but the test was not held. Applicant has sought the declaration of the result of the test held on 15.11.94 with consequential promotion.

6. The learned counsel for the respondents has reiterated the stand as stated in the counter reply.

At this stage, when the dictation of the judgement was nearing to a close, Shri M.K.Bhardwaj, learned counsel for the applicant appears and requests for an adjournment. We cannot agree. As already stated this is an old matter of 1996. Clear indication is given in

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the cause list that no adjournment will be granted in such cases. Hence we are proceeding further to dispose of the OA.

7. We have carefully considered the pleadings. We note that the applicant was called for suitability test strictly on the condition that the post was reserved for ST candidate and the result would be declared only after sanction for the dereservation of the post was obtained. The respondents had a valid reason for not obtaining dereservation of the post between 15.11.1994 and 30.11.1994 and therefore they had to carry forward the reserved vacancy. The applicant was aware that his result depended on the dereservation of the post. Since the post could not be dereserved, the applicant cannot have any claim. We do not find any fault in the procedure followed by the respondents. In our view the applicant's case is devoid of merit. The OA is accordingly dismissed. No costs.

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(Smt. Shanta Shastry)
Member(A)

V. Rajagopala Reddy

(V. Rajagopala Reddy)
Vice-Chairman(J)

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