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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

OA No. 1731/97

New Delhi, this the 20th day of July, 1998

HON'BLE SHRI T.N. BHAT, MEMBER (J)
HON'BLE SHRI S.P. BISWAS, MEMBER (A)

In the matter of:

Prithvi S/o Shri Kansh Nath Prasad,
Machine Shop Khalasi,
Diesel Shed, Tuglakabad,
New Delhi - 110044. Applicant
(By Advocate: Sh. A.K. Bhardwaj)

Vs.

1. Union of India
Through:-
The General Manager,
Northern Railway,
Baroda House, New Delhi.
2. The Sr. D.P.O.
Northern Railway,
Delhi Division, DRM Office,
Paharganj, New Delhi.
3. The Divisional Railway Manager,
Northern Railway,
Delhi Division,
DRM Office, Paharganj,
New Delhi.
4. The Sr. Divisional Mechanical Engineer,
Northern Railway,
Delhi Division,
Tuglakabad, New Delhi - 44.
5. Ranjan/Arjun Singh, MSK,
N.R., Diesel Shed, TKD,
New Delhi. Respondents
(By Advocate: Sh. B.S. Jain)

ORDER

delivered by Hon'ble Shri T.N. Bhat, Member (J)

Applicant is a Railway employe and is aggrieved by the action of the respondents in calling only 5 persons to the trade test for promotion to the post of Turner Grade III and exclusion of the applicant's name in the list of persons called for the trade test. Admittedly, there were 5 vacancies and only 5 persons had been called

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20.7.98

for the trade test. Applicant claims to be eligible and further states that had a larger number of candidates as required by the relevant rules been called, the applicant would have come within the zone of consideration. The applicant further states that Resp. No.5, namely, Sh. Ranjan is junior to him and even so he was called for the trade test. It is admitted that the post of Turner is a selection post. According to the rules the posts of Turner can be filled up by promotion on the basis of seniority cum merit, by Limited Departmental Competitive Examination to the extent of 25% of the posts and by direct recruitment from open market to the extent of 25%.

2. Applicant seeks the following reliefs as stated in para 8 of the OA:-

"a) To quash the letter No. 293 E/ 347 Diesel/ P.5 dated 24.6.1997 so far as it relates to the trade test for promotion to the post of Turner - III. (Annexure A-1).

b) To quash the trade test dated 21.7.1997 held by the respondents pursuant to the impugned letter dated 24.6.1997 for promotion to the post of Turner - III.

c) To mandate the respondents to conduct a trade test for promotion to the post of Turner Gr- III on the basis of the letter No. 293- B/347/ Dsl. /Gr. III/ P-5 dated 21.9.1996 (Annexure A-2).

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d) To command the respondents to consider the applicant for his promotion as Turner - III and to give him consequential promotion.

e) To mandate the respondents to add the name of the applicant in the seniority list of Machine Shop Khalasis, determining his seniority from 13.2.1979 with all consequential benefits.

f) To allow the Original application of the applicant with cost of the litigation.

g) To pass such other and further orders which their lordships of the Hon'ble Tribunal deem fit and proper in the existing facts and circumstances of the case."

3. The respondents have resisted the applicant's claim by filing a detailed counter. According to the respondents the OA is barred by time and further that the applicant has claimed multiple reliefs in one OA. It is further averred that there is no requirement to call more persons to the trade test than the number of vacancies. For this the respondents rely upon R-3 which is a letter from the DPO to the Divisional Secretaries of NRMU and URMU. The respondents further deny that any the person called to the trade test was junior to the applicant.

4. We have heard the learned counsel for the parties at length and, for reasons that follow, we are of the view that this OA deserves to be allowed.

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5. We will first take up the contention of the respondents based upon Annexure R-3. In this letter the DPO has issued a circular letter to the Divisional Secretaries of different unions of Railway employees calling applications from various Group 'D' staff for filling up of miscellaneous artisan category post, e.g. Carpenter, Turner, Hammerman, etc. It is further stated as follows:-

"As per existing provisions for holding of trade test the staff equivalent to the number of vacancies is called to appear in the trade test."

6. It was for this reason that the staff were asked to give their options for only one category so that the trade test could be conducted smoothly. When we asked the learned counsel for the respondents to show us any provision in the rules or even instructions on the subject he could not quote any such rule. It is, therefore, reasonable to assume that the view expressed by DPO in the letter R-3 was not the correct view. The general practice everywhere is that a much larger number of persons than the total number of vacancies are called for selection to those posts. Generally three times the number of vacancies are called when the selection is for promotion from class IV to class III. Even the respondents have been following this practice earlier as is evident from Annexure A-2 which is a list of persons called for trade test in pursuance to the letter dated 21.9.96 which incidentally included the name of the applicant also for

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the post of Turner. It is, therefore, intriguing to find that against 5 vacancies only 5 persons have been called for the trade test compelling the applicant to approach this Tribunal for redressal of his grievances.

7. The learned counsel for the respondents also argues that the applicant would not be eligible to seek promotion from the post of Khalasi to the post of Turner. The applicant has admitted this position and it is for this reason that he wants to compete against the 25% quota for unskilled employees. The chance to compete under that quota cannot be denied to the applicant. The contention of the learned counsel for the respondents that since the applicant has not taken a specific plea that he has the necessary educational qualifications as laid down in the Apprentices Act he cannot get, the relief prayed for in this OA does not appear to be a valid contention, as it has not been denied by the respondents that the applicant would be eligible against the 25% quota. It is not the case of the respondents that the applicant does not possess the requisite educational qualifications.

8. In reply to the plea taken by the respondents that multiple reliefs having been prayed for by the applicant in the OA, the OA is liable to be dismissed, the learned counsel for the applicant has taken us through the contents of para 8 of the OA, extracted hereinabove and has contented that all the reliefs except the relief sought for in sub-para (e) are consequential to the main reliefs. The learned counsel further stated that the applicant does not press the relief prayed for under

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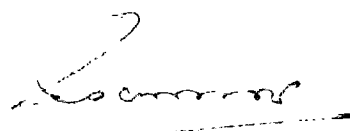
sub-para (e). We find ourselves in agreement with the learned counsel that the other reliefs are connected and consequential to the main relief.

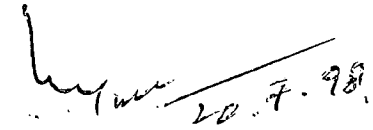
9. As regards limitation, it would suffice to say that the OA is directed against some orders passed in 1996 and 1997 and is, therefore, well within limitation.

10. In view of what has been held and discussed above we allow this OA and quash the trade test held on 27.1.97 as also the letter dated 24.6.97 calling only 5 persons for the trade test against 5 vacancies of Turner Grade III. The respondents are directed to hold a fresh trade test and to call adequate number of candidates, i.e., three times the number of vacancies to participate in the trade test and if the applicant applies, to consider his case for promotion to Turner Grade III, if found fit and suitable.

11. This judgment shall be implemented within a period of 3 months from the date of receipt of copy of this order.

No costs.


(S.P. BISWAS)
Member (A)


(T.N. BHAT)
Member (J)

'SD'