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CENTRAL ADMINISTRATIVE TRIBUNAL PRINCIPAL BENCH

O.A.No.921/1997

New Delhi: this the 30th day of JUNE, 1998

HON'BLE MR.S.R.ADIGE, VICE CHAIRMAN (A)

HON'BLE DR.A.VEDAVALLI, MEMBER (J)

Shri Gir Raj Prasad,
S/o Shri Babu Lal,
Under Inspector of Works,
Northern Railway,
Aligarh.

R/o O.H./43-C,
Railway Station Colony,
Aligarh

..... Applicant.

(By Advocate: Shri B.S.Mainee)

Versus

Union of India
through

1. The General Manager,
Northern Railway,
Baroda House,
New Delhi.

2. The Div. Railway Manager,
Northern Railway,
Allahabad.

3. The Inspector of Works,
Northern Railway,
Aligarh.

..... Respondents.

(By Advocate: Shri P.S.Mahendru)

JUDGMENT

HON'BLE MR.S.R.ADIGE, VICE CHAIRMAN (A)

Applicant seeks a direction to hold a trade test for the post of Painter Gr.II and in case he is declared qualified, he be promoted from the date on which his juniors were promoted, with all consequential benefits.

2. Admittedly applicant who belongs to SC community was appointed as a Casual Labourer in 1974, and CPC scale was granted to him from 16.8.78 as Khallási, and

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after qualifying in trade test he was promoted as painter Gr.III on 6.9.82 On 22.4.93 applicant was transferred from Aligarh to Kanpur, which he challenged in OA No.1416/93 before CAT Allahabad. That OA was eventually allowed by judgment dated 7.6.95(annexure-A4) whereby the transfer order was quashed and in case applicant had not joined duty at Kanpur, respondents were directed to regularise the intervening period from 22.4.93 to 7.6.95 as leave due, which admittedly they did.

3. Meanwhile respondents held a trade test for the post of Painter Gr.II on 16.7.93. Applicant avers that he was not called for the aforesaid trade test while respondents contend that as he was not working at Aligarh, nor reported for duty at Kanpur during the period the trade test was held, he is himself responsible for not being called for the trade test.

4. No rule or instruction has been shown by Shri Mainee to establish that an employee has an enforceable legal right to compel respondents to hold a trade test and if he is declared qualified in the same, to promote him from the date his juniors were promoted who qualified in an earlier trade test. Respondents held the trade test for the post of Painter Gr.II on 16.7.93 which fell during the period respondents were directed to treat applicant as on leave. If this leave period were on account of say applicant's illness or any other such reason and not because of the particular facts of this case, could

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applicant have sought a direction to compel respondents to hold a trade test ? Nothing has been shown by Shri Mainee to establish that applicant could have done so.

5. In this view of the matter the OA warrants no interference. It is dismissed. No costs.

A. Vedavalli
(DR. A. VEDAVALLI)
MEMBER(J)

S. R. Adige
(S. R. ADIGE)
VICE CHAIRMAN (A).

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