

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A.No.451 of 1994

New Delhi, this 17th day of November, 1998.

HON'BLE SMT. LAKSHMI SWAMINATHAN.MEMBER(J)
HON'BLE SHRI K. MUTHUKUMAR, MEMBER(A)

1. Anil Kumar Rakesh
S/o Shri Lal Ram Rakesh
R/o 1449/190A/30, Durgapuri
Loni Road
Delhi.
2. Durgesh Kumar
S/o Shri Mohan Lal
R/o-2048, Rani Bagh
Delhi.
3. Prehlad Singh
S/o Shri Ram Sarup
R/o No.14/60 East Mehram Nagar
Palam Airport
New Delhi.
4. Naresh Kumar
S/o Shri Rampat
R/o 1425 Pana Paposian
Narela
Delhi-40.
5. Jagdish Kumar
S/o Shri Alter Singh
R/o Vill. Bazitpur, P.O. Nangal
Delhi-39.
6. Mohan Kumar
S/o Shri Deep Chand
R/o B-756 Jahangirpuri
Delhi-33.
7. Omvir
S/o Shri Attar Singh
R/o Vill. Tatesar, Januti
Delhi-81.
8. Sukhpal Singh
S/o Shri Ram Singh
R/o Vill. & P.O. Sadarpur
Ghaziabad.

... Applicants

By Advocate: Shri B.S Mainee

versus

1. The General Manager
Northern Railways
New Delhi.

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2. The Divisional Railway Manager
State Entry Road
NEW DELHI.

(46)

3. The Director
National Council for Training
Vocational Trade
Ministry of Labour, Rafi Marg
NEW DELHI.

... Respondents

By Advocate: Shri R.L. Dhawan

O R D E R (oral)

HON'BLE SMT. LAKSHMI SWAMINATHAN.MEMBER(J)

In this OA the applicants who claim that they are Apprentices are aggrieved that respondents-1&2 have not offered them appointments as Fitters (Carriage & Wagon). According to the applicants in accordance with the orders issued by respondents-2, they have completed their training. They rely on letter dated 6.12.93 (Annexure A-5) issued by D.R.M., New Delhi to D.G.E.T., National Council for Training, Vocational Trade, Ministry of Labour, New Delhi, in which it has been, inter alia, stated that since every Trade Apprentice is required to pass the test conducted by that office, the applicants have been directed to that office for necessary Trade test and award of Proficiency Certificate, if found suitable.

2. One of the main grievance of the applicants is that the applicants duly reported in the office of the D.G.E.T., National Council for Training, Vocational Trade, New Delhi, who refused to conduct the test on the ground that this was not part of their function. After the OA had been filed, an amended application had been filed on 17.2.95. In the amended OA, another relief has been added for a direction to the

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respondents to conduct the test and issue Proficiency Certificate to the applicants in the designated Trade in accordance with the provisions of the Apprentices Act, 1961. Fresh notice had been issued to respondent-3 on 18.4.95 but we note that no reply has been filed by that respondent. In the circumstances, learned counsel for the applicants has prayed that the respondents may be directed to permit the applicants to complete the final test which they should hold within a reasonable time and to issue Proficiency Certificate to enable them to obtain consequential benefits from respondents-1&2. Shri B.S. Mainee, learned counsel has relied on the judgment of the Supreme Court in U.P. State Road Transport Corporation & Anr. Vs U.P. Parivahan Nigam Shishukhs Berozgar Sangh (SC SLJ 1995 (1) Vol. 20 p. 276 paragraphs 11&12) and Railway Board's circular dated 3.12.96 (copy placed on record).

3. In reply to the amended OA, the respondents have stated that the OA is not maintainable. They have referred to the fact that they had forwarded the claims of the applicants to the National Council of Training, Vocational Trade, Ministry of Labour, New Delhi, who is to award the Proficiency Certificate to the applicants. They have also stated that the applicants are not registered as Trade Apprentices under the Apprentices Act, 1961 and have submitted that the applicants are only Trainees and not workers. and any grievance they might have with respondent-3 in not giving ^{them} the final test, should be taken up with that

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respondent. They have also stated that the applicants are to be issued Proficiency Certificates by the Director, National Council of Training, Vocational Trade, Ministry of Labour, New Delhi, but the applicants have failed to obtain the same.

4. From the facts mentioned above, it is apparent that the applicants have received initial training as Apprentices with respondent-2, but they have yet to complete the final test and obtain the Proficiency Certificate which is to be issued by respondent-3 under the provisions of the Apprentices Act, 1961. From Annexure A-5 letter issued by respondent-2, it is also seen that they had referred the applicants to the Director, D.G.E.T., National Council for Training, Vocational Trade, Ministry of Labour, New Delhi/respondent-3 for conducting the necessary test for award of the certificate, if they are found suitable. ^{8/}from the pleadings we are unable to gather the reasons why respondent-3 has refused to hold the test as their reply to amended OA is not on record. Annexure R-1 to the reply filed by respondents-1&2 is from the Joint Director of Training in which it is stated that since the applicants were not registered as Trade Apprentices and they are not a party in the instant case (OA.451/94), they were not in a position to offer any comments on the application. However, as noted above, fresh notice had been issued to respondent-3, but no reply has been filed by them.

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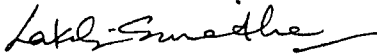
5. In the above facts and circumstances, the OA is disposed of with the following directions:-

(i) The applicants to make fresh applications to respondent-3 requesting them to hold the final test to adjudge their suitability for the Proficiency Certificate in accordance with the provisions of the Apprentices Act, 1961. If the applications are received by respondent-3 within one month from the date of receipt of a copy of this order, they shall hold the test within the shortest possible time, preferably within four months.

(ii) After successful completion of the aforesaid test and obtaining Proficiency Certificate, the applicants may apply to respondents-1&2 who may thereafter consider them for appointment as Fitters (Carriage & Wagon) in accordance with the provisions of the Recruitment Rules, relevant Railway Board circulars and also keep in view the judgment of the Supreme Court in U.P. State Road Transport Corporation & Anr. Vs U.P. Parivahan Nigam Shishukhs Berozgar Sangh(supra).

No order as to costs.


(K. Muthukumar)
Member(A)


(Smt. Lakshmi Swaminathan)
Member(J)

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