

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH

O.A. No. 2008/89

New Delhi, dated the 29th April, 1994

Hon'ble Sh. B. N. Dhoundiyal, Member (A)

Hon'ble Smt. Lakshmi Swaminathan, Member (J)

Shri Yoginder Kumar Jain  
S/o Shri S. P. Jain,  
R/o Rly. Quarter,  
Hardinge Bridge,  
New Delhi.

Naresh Kumar Bhardwaj,  
Head Clerk,  
P.Way Cell,  
Kashmere Gate, Delhi-6

... Applicants

(None for the applicants)

Versus

1. Genl. Manager, Northern Railway,  
Baroda House, New Delhi.
2. Chief Administrative Officer/Const.  
Northern Railway, Kashmere Gate,  
Delhi.

... Respondents

(By Advocate Sh. O. P. Kshatriya)

3. Sh. P. N. Mudgil,  
Legal Asstt.  
Construction Division,  
Northern Railway,  
Kashmere Gate, Delhi.

(By Advocate Shri S. K. Sahani)

ORDER (ORAL)

(Hon'ble Shri B. N. Dhoundiyal, Member (A))

This case has been on Board since 26.4.1994  
and today it is posted for peremptorily final hearing.  
Though this case has been called out twice, none is  
present on behalf of the Applicant. We, therefore,  
proceed to dispose of the case on the basis of the  
pleadings as well as submissions made by the ld. counsel  
for the respondents.

BW

2. The main avemments made in the O.A. are that the applicants were initially appointed as clerks and worked as Head Clerks applicant No.1 w.e.f. 6.3.1987 and applicant No.2. w.e.f. 28.10.1988 in the Northern Railway, New Delhi. Both the applicants were considered against the newly created post of Law Assistant in the grade of Rs 1600-2660. They are aggrieved that respondent No.3, one Shri Mudgil who was only a telephone operator, has been appointed to this post. It is contended that only those who work in the immediate lower grade should have been considered for promotion. They have, therefore, requested that appointment of the respondent No.3 as Law Assistant be terminated and respondents be directed to appoint the applicant as Law Assistant on adhoc basis till the regular selection takes place.

3. Indian Railway Establishment Manual Volume-1 (Revised Edition-1989) makes the following provision for filling up the post of Law Assistant:-

" The remaining quota of 66-2/3% of total vacancies should be filled by promotion, on the basis of selection, of serving employees with atleast 5 years service and possessing a Degree in Law, irrespective of the Department in which they may be working. The promotion quota will be filled to the extent indicated above subject to the availability of suitable candidates. Otherwise the remaining vacancies will also be filled by direct recruitment."

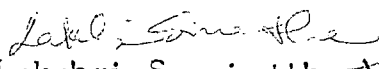
It is only mentioned for promotion, there should be zone of consideration confined only to the grade immediate below. The recruitment rules only provide that candidate should have at least 5 year service and possess a degree in Law. *bw*

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The learned counsel for respondents draws our attention to letter dated 7.2.89 from Headquarter office of the Northern Railway, which is in reply to the representation made by the applicants. It has been stated that they have also been considered for adhoc promotion alongwith Shri Mudgil. Taking into the consideration his experience as Law Assistant in Delhi division, pertaining to Estt.Matters, the competent authority has selected him as Law Assistant in construction organisation.

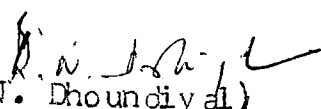
4. The applicants have themselves mentioned in this O.A. that though the respondent No.3 was appointed as telephone operator, he was acting as Law Assistant before his adhoc promotion. We also learnt that subsequently the respondent No.3 has been selected by a properly constituted D.P.C.

5. In view of the aforesaid mentioned clarifications, application is not sustainable and is hereby dismissed. No costs.

  
(Lakshmi Swaminathan)

Member(J)

sk

  
(B.N. Dhoundiyal)

Member(A)