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Central Administrative Tribunal
Principal Bench, New Delhi.

OA-2015/89

New Delhi this the 29th Day of April, 1994.

Hon'ble Mr. B.N. Dhoundiyal, Member(A)
Hon'ble Ms. Lakshmi Swaminathan, Member(J)

Sh. Badan Singh,
S/o Sh. Bangali,
Semi Highly Skilled Fitter,
C&W Department, Northern Railway,
Tuglaka Bad,
New Delhi.

Applicant

(By advocate Sh. V.P. Sharma)

versus

1. Union of India,
through the General Manager,
Northern Railway,
Baroda House,
New Delhi.
2. The Divisional Railway Manager,
Northern Railway,
New Delhi Railway Station,
New Delhi.
3. Sr.Divl. Mechanical Engineer,
Northern Railway,
Delhi Division,
New Delhi.

Respondents

ORDER(ORAL)
delivered by Hon'ble Mr. B.N. Dhoundiyal, Member(A)

The material averments made in this O.A. are these. Having joined the Railway on 14.6.1962, at the time of filing this application, the applicant was working as SHS-Fitter Grade Rs.1200-1800/-. In the year 1986, selections were made to the post of Skilled Fitter Grade-II and the applicant was duly selected and promoted to this post. He claims to have been working as Skilled Fitter Grade-II w.e.f. 30.4.1987. Even though no formal order of reversion was passed on 17.6.1989, he came to know from the

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pay clerk that his pay was being charged for the lower post. He represented to the authorities but he did not get any response. The reversion of the applicant from the post of Semi Skilled Fitter Grade-II (Rs. 1200-1800) to the lower grade of Rs. (950-1500) was not justified and the applicant having worked for 18 months has a prescriptive right to hold that post. He has prayed that the order of reversion may be quashed and direction be issued to the respondents to pay him the back wages.

In the counter filed on behalf of the respondents, it has been admitted that employees working as skilled fitters in the grade of Rs. 950-1500 were called for trade test for promotion to the post of Skilled Fitter Grade-II in the scale of Rs. 1200-1800. However, the applicant was declared unsuccessful vide serial No. 22 of Divl. Railway, New Delhi, letter No. 293-E/168-7/P-5 dated 27.11.1987 (Annexure R-1). It has further been clarified that as a S.C. employee, the applicant would have been declared at par even if he obtained 30 marks out of 60. However, he secured 28 marks out of 60 in the practical test and 3 marks out of 40 in oral test. i.e. in aggregate 31 out of 100. He was promoted on ad hoc basis as Fitter grade Rs. 1200-1800 vide letter dated 1.5.1987. But his promotion order was cancelled immediately thereafter vide order dated 7.5.1987. on the ground that he failed in the trade test.

Though this case was posted preemptorily for final hearing in the first ten cases, no one appeared on behalf of the respondents. We, therefore, proceed to decide this case on the basis of pleadings on record and the submissions made by the learned counsel for the applicant.

The learned counsel for the applicant has fairly stated at the Bar that the applicant having failed in the trade test, can't claim promotion to the post, as a matter of right. It is his contention that the ad hoc appointment of the applicant continued for some time and he should be paid wages for the higher post for that period. However, this fact is denied in the counter wherein it has been stated that order of ad hoc promotion dated 1.5.1987 was cancelled on 7.5.1987.

In the facts and circumstances of the case, we hold that the applicant is not entitled to the relief claimed by him. However, in case he has worked for some time in the higher post in the grade of Rs.1200-1800, he is entitled to higher wages for that period. The respondents are, therefore, directed to scrutinise the claim of the applicant that he continued to work on the higher post on ad hoc basis and in case on such verification, his claim is found genuine, then he should be paid higher salary for the period within three months from the date of communication of this order.

There will be no order as to costs.

Lakshmi Swaminathan
(LAKSHMI SWAMINATHAN)
MEMBER (J)

B. N. Dhoundiyal
(B. N. DHOUNDIYAL)
MEMBER (A)

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