

Central Administrative Tribunal
Principal Bench, New Delhi.

D.A.1105/1989

New Delhi, This the 18 th Day of March 1994

Hon'ble Shri C.J. Roy, Member(J)

Hon'ble Shri P.T. Thiruvenagadam, Member(A)

Shri Chander Shekhar Varma son of
Shri Devi Sahai, Resident of
Ram Nagar, Mandoli Road,
Delhi Shahdra and working as
Material Checking Clerk under
Inspector of Works,
Northern Railway, New Delhi.
By Advocate: Shri SK Sawhney

...Applicant

Versus

1. Union of India through
General Manager
Northern Railway
Baroda House,
New Delhi
2. Senior Division Personal Officer
Northern Railway
Chelmsford Road
New Delhi.

...Respondents

By Advocate Shri B K Aggarwal

O R D E R (Oral)

Hon'ble Shri P.T. Thiruvenagadam, Member(A)

1. The applicant was appointed as Khallasi on 29.9.78. He was posted as ad hoc Material Checking Clerk (MCC) by an order dated 20.5.88. The post of material clerk is in Group C whereas the post of Khallasi is in Group D. Indian Railway Establishment Manual provides for 33 $\frac{1}{3}$ % of group C vacancies of MCC being filled by selection from eligible group D staff.
2. The Divisional Personal Officer, Railway Division, Northern Railway issued a notification dated 10.3.88 which reads as under:-

"Subject: Selection for the post of M.C.C. in Grade of Rs.950-1500(RPS) against Permanent Posts.

In supersession to this officer notice of even No. dated 2/88, it has been decided to conduct the viva-voce test at 10.00 hrs in DRM office on 24.3.1988 to regularise the M.C.C. against Permanent posts on the basis of their service.

Accordingly the seniority list of staff who have completed 3 years of service of MCCO as on 8.5.87 is sent herewith for the information of staff concerned. They should be directed to appear for the viva-voce on the same date."

This was followed by * supplementary lists dated 25.1.89 and 17.2.89 wherein the officiating MCCs who were senior to those already included in the first listed dated 10.3.88 were also called for viva-voce test on the specified dates. This OA has been filed seeking the following reliefs:

- i) Quash the illegal panels of 55 persons declared on 28-3-88, and 141 persons declared as a result of viva-voce test held vide Annexures A3 to A5.
- ii) Quash the illegal and arbitrary orders of 4/89 Annexure A1.
- iii) Direct the Respondents to allow the applicant to appear in the viva-voce test for the selection post of Material Checking Clerk like his juniors who had already appeared in the test.
- iv) Grant any other relief to which the applicant may be found eligible.
- v) Award costs of this application.

3. During arguments, the learned counsel for the applicant did not press for the reliefs 1 and 2 and mainly pressed for relief No.3. It was his case that the General Manager had taken a local decision that all those staff who were working continuously as MCC on adhoc basis for a period of three years may be regularised on the basis of their service record and viva-voce duly observing upholding the extent instructions on the subject as a special case not to be quoted as precedent in future. Such a decision was to the prejudice to the applicant who was posted on ad hoc basis as MCC only in May 88 whereas a number of his juniors had been posted as adhoc MCCs on earlier dates and were getting the benefit

of regularisation. However, after perusing the first supplementary list dated 25.1.89 we found the name of the applicant has been included (Annexure A4).

The learned counsel for the applicant fairly conceded that the relief had already been met and hence is not pressing the OA.

4. In view of the facts and circumstances, this OA is dismissed. The interim order passed stands vacated. No costs.

P.T.Thiru

(P.T.THIRUVENGADAM)
Member(A)

C.J.Roy
(C.J.ROY)
Member(J)

LCP