

Central Administrative Tribunal
Principal Bench: New Delhi

OA No.711/88

Date of decision: 9.9.1993.

Shri Om Parkash Saini

...Petitioner

Versus

Union of India through the
General Manager, Northern
Railway, New Delhi

...Respondent

Coram:- The Hon'ble Mr. I.K. Rasgotra, Member (A)
The Hon'ble Mr. B.S. Hegde, Member (J)

For the petitioner

Shri S.K. Sawhney, Counsel.

For the respondent

Shri B.K. Aggarwal, Counsel.

Judgement(Oral)
(Hon'ble Mr. I.K. Rasgotra)

We have heard Shri S.K. Sawhney and Shri B.K. Aggarwal, learned counsel for the petitioner and respondent respectively.

2. The case of the petitioner is that he appeared in test for Train Examiner (TXR) in accordance with the provisions made in Paragraph-142 (iii) of Indian Railway Establishment Manual Volume-I (1989 Edition). The said paragraph reads as under:-

"(i) 40% by direct recruitment as Apprentice Train Examiners through the Railway Recruitment Boards;

(ii) 20% by Intermediate Apprentices from amongst serving Matriculate employees with three years service in skilled grade(s) and below 45 years of age; and

(iii) 40% by promotion by selection. If the selection/supplmentary selected from amongst Mistries/Skilled Grade I & II fails to provide

enough candidates, another supplementary selection from amongst skilled grades (with 5 years service in skilled grades and 8th class qualification or with 3 years service and Matriculation) will be held the condition regarding qualification applying to staff in skilled grade III."

The petitioner had appeared for the TXR selection under category (iii) in 1977. He was sent for intensive training on 30.7.1983 which was to last for one year. The respondents did not issue any seniority list of TXRs during the period 1978 to 1984. Vide impugned order dated 23.9.87 the petitioner was not given the benefit of upgradation which took place under the restructuring order of the Ministry of Railways while his juniors were given the higher grade of Rs.550-750. He filed a representation on 16.10.1987, to which, according to the petitioner, there is no reply.

3. Shri S.K. Sawhney, learned counsel for the petitioner submitted that since the petitioner had been selected in a regular selection in terms of paragraph-142 of I.R.E.M., reproduced above, his seniority should have been related back to his year of selection after he qualified in the intensive training. The petitioner qualified in the intensive training and his appointment which was initially made on ad hoc basis w.e.f. 15.3.1979 was regularised w.e.f. 18.8.1984 and he has been assigned seniority from the same date. The petitioner qualified in the intensive training vide order dated 13.7.1983.

4. From the above facts and circumstances of the case it appears to us that the petitioner was declared successful in the said examination in 1979 when he was promoted on ad hoc basis w.e.f. 15.3.1979. He was sent for intensive training for one year which he cleared on

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13.7.1983. In the meantime, he had continued to work as TXR uninterruptedly. The training for the apprentices under paragraph-142 (ii) is for two years. The petitioner had appeared in the ~~selection~~ held later in terms of paragraph-142 (ii) also in which he was declared successful. The respondents have given him the benefit of the latter selection and not of the former. Since he was selected in terms of paragraph-142 (iii) I.R.E.M. and was given training accordingly, he is entitled to reckon his seniority w.e.f. 15.3.1979. Ordered accordingly. He shall also be entitled to the consequential benefits which will accrue to him by virtue of his seniority being reckoned from 15.7.1979. No costs.


(B.S. HEGDE)
MEMBER(J)


(I.K. RASGOTRA)
MEMBER(A)

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