

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH, NEW DELHI.

O.A. NO. 805/1988 with  
M.P. No.1823/1988

8th day of November, 1993

SHRI C.J. ROY, MEMBER (J)

SHRI P.T. THIRUVENGADAM, MEMBER (A)

1. Shri Ram Awtar Mishra  
Signaller,  
Railway Telegraph Office,  
Delhi Junction. ...Applicant

By Advocate Shri J.K. Bali

VERSUS

1. Divisional Railway Manager,  
Delhi Division,  
Northern Railway,  
New Delhi.
2. Principal,  
Zonal Training School,  
Northern Railway,  
District Moradabad. ...Respondents

By Advocate Shri K.K. Patel

O R D E R

Shri P.T. Thiruvengadam, Member

The applicant joined Delhi Division of the Northern Railway on 31.10.1980 as Signaller in Grade of Rs.260-430 (RS). When the applicant was working as Signaller, a Notification dated 13.08.1985 was issued by the Division inviting applications from all the employees who are working in Grade Rs.260-400/260-430, who are Matriculates and who had completed 3 years of non-fortuitous service in Class-III as on 16.09.1985 for filling up clear vacancies of promotee quota for the posts of Enquiry-cum-Reservation Clerks in Grade Rs.330-560. The applicant, who fulfilled the qualifications, applied for the same. A written competitive examination was held on 27.07.1986 followed by a viva-voce test on 20.04.1987.



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2. The result of the selection was declared on 15.07.87 wherein the applicant figured at S.No.61 in the panel comprising of 96 successful persons. Before appointment, the empanelled candidates had to undergo T.12/P.12 course of training for the post of Enquiry-cum-Reservation Clerk (in short 'ECRC) at the Northern Railway Zonal Training School at Chandausi. The applicant was accordingly booked for the course scheduled for the period from 11.4.1988 to 16.5.1988. He joined the above course on 14.4.1988 but was suddenly spared by respondent No.2 for reporting back to the Division on 29.04.1988.

3. This O.A. has been filed for quashing the orders of respondent No.2 at Annexure A-1 by which the applicant was relieved from the training school on 29.04.1988 for reporting back to Delhi Division.

4. In terms of the interim order passed by this Tribunal, the respondents permitted the applicant to appear for the final examination for the said course scheduled to be held on 11th-16th of May, 1988 and it is admitted that the applicant appeared in the written examination and was declared successful in the P.12 course and is at S.No.63 vide results published on 06.06.1988.

5. The learned counsel for the respondents states that the applicant was given training for the post of Assistant Station Master during the period 25.02.1987 to 20.07.1987. Pursuant to the said training, the applicant was nominated for practical line training vide letter dated 08.08.1987. On completion of successful training from Chandausi and line training, the applicant was posted as Assistant Station Master at Thana Bhawan vide orders issued under No.844-E/33/U-PI dated 22.12.1987. It is the case of the respondents that the grade of Assistant Station Master and ECRC is same. As the applicant had already been imparted training for the post of Assistant Station Master which is far more extensive and exhaustive compared to any other training and as the post of ASM is a safety post where there has been acute shortage of candidates, the claim of the applicant



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for posting as ECRC cannot be considered. It has been submitted that at the time of nominating the empanelled ECRC candidates for the T.12/P.12 course to be held from 11.4.1988 to 16.5.88, just by omission it went unnoticed that the applicant had already been imparted training for the post of Assistant Station Master as well as the fact that the applicant had already been posted as ASM at Thana Bhawan. The respondents allege that they have incurred heavy expenditure in imparting training to the applicant for the post of Assistant Station Master and the applicant had not yet taken charge as ASM at Thana Bhawan. Further it is the case of the respondents that in consonance with the service rules, regular promotion channel for Signallers is Assistant Station Master and not ECRC.

6. The learned counsel for the applicant argued that the applicant was given the ASM's training in the Zonal School during February, 1987 to July, 1987 not as a result of the applicant volunteering for the post of ASM but since the Administration at that point of time felt that the posts of Signallers were getting to be surplus. Thus it was more for administrative convenience that the applicant was forced to undergo such practical training for the post of Assistant Station Master. Even during this training period when the viva-voce for the post of ECRC was held, he was released by the Department for appearing in the interview, well knowing that the applicant was already under training for the post of ASM.

7. Subsequently, the applicant was directed for the practical training for ASM by Department's letter dated 15.07.1987. The applicant again protested that he had already been empanelled for the post of ECRC. The applicant preferred to attend the training for the post of ECRC rather than to avail the ASM line training programme scheduled to be held in July/August, 1987. Despite this

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protest letter, the applicant was subjected to further training and was utilised as ASM in connection with emergent Non-Interlocking works under the Traffic Inspector(Non-Interlocking) Delhi Subzimandi. The reference by the respondents to the notice issued on 22.12.1987 promoting the applicant as ASM in the higher grade subject to his paying the necessary security deposit amount etc. was never received by the applicant and it is his (the applicant's) case that he has never been promoted as ASM nor even paid the salary as ASM. Not even officiating allowance was given for shouldering the higher responsibilities.

8. As regards the contention that the post of ASM is in the direct channel of promotion for Signallers, the applicant stated that Signallers in Grade Rs.260-430 are to be promoted as Senior Signallers in Grade Rs.330-560. Options are open to the Signallers to compete for the percentage stipulated/quotà of vacancies of ASM's, if they so desire. They could also compete along with all other departmental candidates in the same grade of Rs.260-430 for the post of ECRC. Thus, the main channel of promotion for a Signaller is only as Sr. Signaller and the other streams like ASM, ECRC etc. are available to them but on option basis.

9. Having heard both the counsel we note that Signallers can branch off from the main stream and take up post in the next higher grade as ASM, ECRC etc. But having opted for a particular stream and accepted a post in the higher grade like, say, /ASM, it should be deemed that the employee foregoes his option to join other streams or even to progress in his own stream. It is conceded that for filling up the post of ~~ASM~~ <sup>ECRC</sup> only employees in the lower grade of Rs.260-430 are eligible to opt. Obviously, the final promotions to the grade of Rs.330-560 as ECRC can take place only if the

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.5. have not candidates who have opted/ in the meantime progressed to the higher grade in other streams. In this case despite the promotion order said to have been issued promoting the applicant to the post of ASM vide notice dated 22.12.1987, it has not been established that such a promotion did take place. The applicant's contention that he continued to draw the pay of the Signaller and even was designated as Signaller right from September, 1987 when he was being utilised to discharge the duties of ASM, has not been refuted. Hence, this is a case where the option to become ECRC should be allowed to the applicant who had passed through a rigorous selection for this post along with eligible candidates from all Departments. In the circumstances, the impugned letter of respondent No.2 dated 29.04.1988 returning the applicant to the Delhi Division is set aside and quashed. He will be eligible for the consequential benefits including seniority etc. which should be reckoned with reference to his juniors who underwent the T.12/P.12 course during 11.5.1988 to 16.5.1988.

10. With the above directions, this O.A. is disposed of. No costs.

P. J. D. S.  
(P.T. THIRUVENGADAM)  
MEMBER (A)  
08.11.1993

(C.J. ROY)  
MEMBER (J)  
08.11.1993

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