

Reasoned

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH
JABALPUR

Original Application No.200/00408/2020

Jabalpur, this Thursday, the 15th day of October, 2020

HON'BLE SHRI RAMESH SINGH THAKUR, JUDICIAL MEMBER
HON'BLE MS. NAINI JAYASEELAN, ADMINISTRATIVE MEMBER



Umkar Jhariya
S/o Shri Nemi Chand Jhariya
Aged about 35 years
By Occupation Service
Engineering Department
Welder III Posted at Senior Section Engineer
P-Way Damoh West A.D.N. Damoh
R/o Ward No.8 Tandon Bagicha
Damoh, District Damoh (M.P.) PIN Code 472661 **-Applicant**

(By Advocate –**Smt. Vandana Tripathi**)

V e r s u s

1. Union of India Through General Manager
Department of Railway W.C.R. Jabalpur
District Jabalpur PIN Code (PIN Code 482001)

2. Divisional Railway Manager (Personnel Branch/
Karmik Shakha) West Central Railway Jabalpur
(M.P.) PIN Code 482001

3. APO/Admn/HQ WCR/JBP C/o GM's Officer
Personnel Branch WCR/Jabalpur 482001 **- Respondents**

(By Advocate –**Shri Sapan Usrethe**)

ORDER (Oral)

By Ramesh Singh Thakur, JM:-



This Original Application has been filed by the applicant against the impugned order dated 21.07.2020 (Annexure A/1) whereby the form of the applicant for filling the post of Chief Law Assistant has been rejected by the respondent No.2 on the pretext that he has not completed about more than 5 years in Group C.

2. The applicant has prayed for the following reliefs:-

“8.1 Hon’ble Court may kindly be pleased to call for the entire record pertaining to the present case from the respondent authorities.

8.2 Hon’ble Tribunal may kindly be pleased to set-aside impugned order dated 21.07.2020 contained in Annexure A/1 and direct the respondents to accept the application form of the applicant dt.13.07.2020 contained in Annexure A/3 for the post of Chief Law Assistant.

8.3 Any other writ, order or direction, which this Hon’ble Tribunal deems fit and proper in the facts and circumstances of the case, may also kindly be passed together with the cost of litigation, in the interest of justice.”

3. From the pleadings, the facts of the applicant is that the applicant is working on the post of Engineering

Department Welder-III Posted at Senior Section Engineer P-Way Damoh West, A.D.N. Damoh. The notification dated 24.06.2020 (Annexure A/2) was issued by respondent No.3 for the selection to the post of Chief Law Assistant, Grade Rs.9300-34800 + Grade Pay of Rs.4600 (Level 7). In the said notification, the applications were invited from serving Railway employees of WCR (other than RPF/RPSF Personnel) in grade lower than the grade Rs.9300-34800/-+Grade Pay Rs.4600/- against departmental quota as per provision No.131(1)(ii) of IREM Vol.I. The applicant submitted his application form for appearing in the examination for the post of Chief Law Assistant before the respondent-authorities on 13.07.2020 (Annexure A/3) and the last date of submitting the application form was 04.08.2020. The respondent No.2 issued impugned letter dated 21.07.2020 (Annexure A/1) whereby the candidature of the applicant was rejected on the pretext that he has not completed five (05) years in Group C. The same was informed on 03.08.2020. Vide



Circular dated 03.01.2014 of Central Government, Ministry of Railways, Railway Board, New Delhi, it has been decided that all erstwhile Group 'D' categories in G.P. Rs.1800/- since upgraded as Group 'C' will continue to be eligible for selection to Group 'C' post as per the AVC already provided, if they possess the required eligibility criteria i.e. prescribed educational qualification and residency period etc. They will also be eligible for being considered for promotion to the post of Stenographer (GP Rs.2400/-) if they possess the required eligibility criteria.



4. The main grounds for challenging the impugned action of the respondents are that the applicant has not completed five years in Group 'C' whereas the applicant has already completed about more than five years in Group 'C' which is clear from the Circular dated 03.01.2014. Clause 3 of another Circular of Central Government Ministry of Railways, Railway Board, New Delhi dated 08.01.2010 (Annexure A/5). The applicant is fully eligible

for filling up the application form for the post in question.

The same is clear from appointment letter dated 30.09.2013/01.10.2013 along with personal details in the salary for the month of July 2020 of the applicant wherein



it has mentioned that the applicant has been appointed in Grade Pay of Rs.1800/- which comes under Group 'C'; and presently working in Group 'C' and receiving Grade pay of Rs.23100/- for about last more than five years and he cannot be debarred for filling up or rejecting his candidature for the post of Chief Law Assistant.

5. The respondents have filed their reply wherein they have raised the preliminary objection to the fact that the applicant is presently working as Welder in Damoh and he had applied against the notification dated 24.06.2020 for the post of Chief Law Assistant Grade Rs.9300-34800 +GP Rs.4600/- (Level 07) against departmental quota. His application was rejected on the ground that the applicant has not completed five years service in Group C post. The eligibility conditions for the said post are as under:-

(a) Must be a Group C Railway servant having 5 years substantive Service as on date of notification, irrespective of the department in which he is working in a grade below Rs.9300-34800 +GP Rs.4600/- (Level-7)

AND



(b) A Law Graduate having passed final LLB examination from any recognized University. [Provision No.131 (2) (iii) of IREM Vol.I]

Since the applicant was not fulfilling the eligibility condition of minimum 5 years service in Group C post his application was rightly rejected. It has been specifically submitted that in Railway Board's letter dated 03.01.2014 which is as under:-

“erstwhile Group ‘D’ categories in G.P. Rs.1800/- since upgraded as Group ‘C’ will continue to be eligible for selection to Group ‘C’ post as per the AVC already provided.”

6. It is clear from the aforesaid quoted letter which pertains to “classification of Railway Services consequent upon introduction of RS(RP) Rules, 2006-Eligibility for selection to Group ‘C’ in General Categories’ and it further states that “all erstwhile Group ‘D’ categories in G.P. Rs.1800/- since upgraded as Group ‘C’ will continue



to be eligible for selection to Group 'C' post as per the AVC already provided, if they possess the required eligibility criteria i.e. prescribed educational qualification and residency period etc. They will also be eligible for being considered for promotion to the post of Stenographer (GP Rs.2400/-), if they possess the required eligibility criteria. So, it has been submitted by the replying respondents that it does not in any way create new avenue for promotion. This aspect has already been clarified in Railway Board letter dated 08.07.2020 which reads as under:-

“...it may be seen that even though such erstwhile Group 'D' staff have been classified as Group 'C' however, there is no change in the responsibilities being shouldered by them. Therefore, classification of such staff as Group 'C' does not automatically make them eligible for promotion to any of the categories, in case they were not eligible prior to implementation of recommendations of 6th Central Pay Commission.”

Therefore, the applicant is not entitled for any relief as prayed for in this Original Application.



7. The applicant has filed the rejoinder to the reply filed by the replying respondents. The applicant has reiterated its earlier stand taken in the Original Application. It has been further submitted by the applicant that he is working in Group C since the date of his appointment. The relevant extract of Indian Railway Establishment Code (Vol-1) Chapter 1 is at Annexure A/6 of rejoinder. So, the applicant is fully eligible for the post in question and has completed more than five years in Group C. The respondents have tried to justify their act debarring the applicant for the post in question by virtue of letter dated 16.10.2000 along with Advance Correction Slip as Annexure R/4. The same cannot be made effective with retrospective effect, because the applicant is fulfilling all the requisite qualification for the post in question i.e. Chief Law Assistant as per notification dated 24.06.2020 as contained in Annexure A/2.

8. We have heard the learned counsel for both the parties and have also gone through the documents.



9. From the facts, it is itself clear that vide notification dated 24.06.2020 (Annexure A/2) the applicant had applied for the post of Chief Law Assistant. It is clear from Annexure R/1 that applicant was initially appointed as Trackman on a Group D post vide appointment letter dated 30.09.2013/01.10.2013 (Annexure A/6) and he resumed his duty on 11.10.2013 in Pay Band of Rs.5200-20200/- Grade Pay of Rs.1800/-. Relevant page of his Service Register is at Annexure R/1. As per Annexure R/2 which is a copy of promotion order it is clear that the applicant was promoted to the post of Welder in Pay Band of Rs.5200-20200 + Grade Pay of Rs.1900/- vide office order dated 17.10.2019. As per Annexure R/3 dated 08.07.2020 which is the clarification letter issued regarding eligibility criteria conditions for selection to the post of Chief Law Assistant in Level-07 which reads as under:-

“....Further it may be seen that even though such erstwhile Group ‘D’ staff have been classified as Group ‘C’, however there is no change in the responsibilities being shouldered by them. Therefore, classification of such staff as Group ‘C’ does not automatically make them eligible for promotion to

any of the categories, in case they were not eligible prior to implementation of recommendations of 6th Central Pay Commission.”



10. From this Annexure R/3, it is clear that the erstwhile Group 'D' staff have been classified as Group 'C', however, there is no change in the responsibilities being shouldered by them. Therefore, classification of such staff as Group 'C' does not automatically make them eligible for promotion to any of the categories, in case they were not eligible prior to implementation of recommendations of 6th Central Pay Commission. So, from this it is crystal clear that the applicant is not eligible for the post of Chief Law Assistant particularly when the applicant was initially appointed in Group D post and this instructions issued by the respondents (Annexure R/3) clearly spelt out eligibility. This clarification has come regarding the eligibility for fulfilling up the primarily quota in the post of Chief Law Assistant. From this, it is clear that the applicant is not eligible for the said post. So, the review of Annexures R/1, R/2 and R/3, the applicant is not entitled

for any relief being ineligible for post of Chief Law Assistant.

11. Resultantly, this Original Application is dismissed.

No order as to costs.



(Naini Jayaseelan)
Administrative Member

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(Ramesh Singh Thakur)
Judicial Member