

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI.

REGN.NO. C.A. 1444/87.

DATE OF DECISION: 3.2.1993.

Dina Nath & Ors.

... Petitioners.

Versus

The General Manager,
Northern Railway & Ors.

... Respondents.

CORAM:

THE HON'BLE MR. JUSTICE V.S. MALIMATH, CHAIRMAN.
THE HON'BLE MR. I.K. RASGOTRA, MEMBER(A).

For the Petitioners.

... Shri H.L. Bajaj, proxy
for Shri B.S. Mainee,
Counsel.

For the Respondents.

... Shri R.L. Dhawan,
Counsel.

JUDGEMENT(ORAL)

(By Hon'ble Mr. Justice V.S. Malimath,
Chairman)

The petitioners in this case are serving as Air-conditioned Coach Incharge (for short 'ACCI'). They have sought in this petition a direction to the respondents not to conduct the suitability test of A.C. Coaches Mistries, which is being conducted by the respondents on 16.10.1987 as informed by letter dated 22.9.1987 and to declare whether the petitioners are Artisan Staff or Non-Artisan Staff and grant the service benefits also. There is also a prayer for a direction to grant appropriate channel of promotion to the petitioners and other consequential benefits.

2. The principal grievance of the petitioners is that they do not have adequate promotional avenues whereas others in the

mechanical side have adequate promotional avenues. They allege that a representation was given as per Annexure A-1 dated the 3rd of January, 1987 requesting the authorities to clarify whether the petitioners are Artisan staff or Non-Artisan Staff before they were asked to give their acceptance/refusal to attend the trade test. This is in the context of the request made to the persons eligible which includes the petitioners who are in the categories of ACCI for the trade test for the post of AC Fitter Grade-I in the scale of Rs.380-560. When all eligible persons were giving option to appear for the trade test, the ^{petitioners} sent a representation, as aforesaid. The response of the respondents is clear from Annexure 'B' dated 2.2.1987. They informed that in terms of the order dated 18.1.1978, the channel of promotion of ACCI Grade in the scale of Rs.330-480 is combined for the post of AC Fitter Grade-I in the scale of Rs.380-560 along with Fitter Grade-II in the scale of Rs.330-480 on the division. There is a further direction that all the members of the staff should be informed to appear before the trade testing officer for the post of AC Fitter Grade-I in the scale of Rs.380-560. In case, they do not appear for the trade test for the post of AC Fitter Grade-I, their representation dated 3.1.1987 would be treated as amounting to their refusal of the post of AC Fitter Grade-I. All the representationists were required to be informed accordingly under signature and their acknowledgements were also required to be sent. The petitioners

did not take the test whereas others including those in the lower ^{category}/took this test. This is clear from the result of the trade test produced by the petitioners as Annexure C-1 dated 12.2.1987. It pertains to 70 officials. It is stated against the name of each person that either he has refused to appear in the examination or his representation has been disposed of or he has appeared and failed or passed.

3. - The stand taken by the respondents is that the representation of the petitioners had been duly considered and the reply as per Annexure 'B' was given to the petitioners. It is stated that an option was given to them for appearing in the test making it clear to them that if they do not appear for the test, an inference would be drawn that they refused the post of AC Fitter Grade-I.

They have further taken the stand that the petitioners have adequate channel of promotions. They have pointed out that the promotion would be available to them only on their qualifying in the test. It is further stated that the channel of promotion available is firstly to the scale of Rs.380-560 and thereafter to the higher scale of Rs.425-700. The respondents have along with their counter filed a chart showing the channel of promotion. It indicates that the Khalasi (A/C) in the scale of Rs.196-232 can take a trade test and get into the post of ACCA or AC Operator carrying the respective scale of Rs.210-250 and Rs.210-290. Persons belonging to both these categories on their passing trade test

can be promoted as A.C. Mechanic/A.C. Fitter in the scale of Rs.260-400. They have an option to take the trade test and go to the category of ACCI or Highly Skilled Grade-II A.C. Mechanics both in the pay scale of Rs.330-480. The chart further shows that they can take the test and become the Highly skilled Grade-I in the scale of Rs.380-560. In the counter filed by the respondents, there is a positive averment supporting the chart/channel ^{regarding} of promotion. This is what ^{is} stated in the counter:

"As a matter of fact, they were given chances for their advancement to appear in the Trade Test as per their channel of promotion dated 18.1.1978 but they refused to appear in the Trade Test for the post of Highly Skilled ACC Gr.I (AC Fitter Gr.I) Scale Rs.380-560. The category of ACCI Gr. Rs.330-480 is lower than the category of Highly Skilled Gr.I (380-560) and as such the staff who are working as ACCI in Gr.Rs.330-480 are not entitled for promotion as ACC Mistry in Gr.380-560 (Now revised/modified Gr.1400-2300)".

It is not as though that the channel of promotion to the ACCI in the grade of Rs.330-480 is different from the one prevailing in the other zones of the Indian Railways. When this aspect came up for consideration before the Railway Board, this is what they have stated in their letter dated 1/2.9.1986 produced along with the counter affidavit:

"The practice prevailing on the major Railways, viz, Central, Eastern, Southern, South Eastern and Western Railways is that ACCIs are taken from the khalasis in the scale Rs.196-232 and progress to skilled grade III (Rs.260-400), they are then promoted as ACCIs Gr.II (Rs.330-480) after passing the trade test. These ACCIs Gr.II in the scale Rs.330-480 have further avenue of promotion as Gr.I in the scale of Rs.380-560 by trade test and also further avenue of promotion to the grade of Rs.425-700 by selection. This practice is working smoothly without any complaint from the staff or the recognised Unions on these Railways. There is also no stagnation in this category on any of the aforesaid Railways and the staff do not have to switch over to

Mechanical trade for further promotion in higher scales.


In the light of the position explained, the Board regret that no special treatment can be given in such isolated categories on the Northern Railway by providing a separate percentage distribution exclusively for them merely because the available channel of promotion is not being fully exploited for some reasons or the other".

This is a complete answer. It is seen that several promotional opportunities are available. It is found that there is no stagnation. It is also found that the promotional avenues are satisfactory. The Railway Board on thorough examination have found that the ACCIs have good promotional avenues to the grade of Rs.380/560 and further to the grade of Rs.425-700 by selection. Having regard to the material placed before us, we are satisfied that reasonable opportunities for promotion are available for ACCI to the scale of Rs.380-560. Hence, the question of issuing a direction against the respondents in this behalf does not arise.

4. As regards the prayer of the petitioners to direct the respondents to dispose of the representation, we are inclined to take the view that what has been produced by the petitioners as Annexure 'B' amounts to refusal to grant the request made by the petitioners in their representation. Even otherwise, we feel that it is futile to make any direction in this behalf. The only request made by the petitioners is as to whether the petitioners are Artisan Staff or Non-Artisan Staff. That is ^{not} necessary for the purpose of granting any relief.

5. The principal relief claimed in this behalf is for providing adequate avenues on the ground that they are stagnating for want of promotional avenues. Hence, the question of clarifying as to whether the petitioners are Artisan Staff or Non-Artisan Staff really does not arise. If the petitioners did not secure promotion to the higher grade of Rs.380-560, to us it appears that it is for the reason that the petitioners were not properly advised and they did not avail the opportunity offered to take the trade test. Hence, it is not possible to accede to the contention of the petitioner's counsel. The result of the trade test produced as Annexure C-1 makes it clear that even persons in the lower categories than the petitioners except one passed the trade test. The test is relevant to the cadre of ACCI. It is not totally unrelated to the job which the petitioners are performing. It is not possible to take the view that it is an unreasonably onerous test. We hope that they will not miss the opportunity to take the next available trade test. Annexure 'B' gives an impression that the authorities have decided to proceed on the basis that the petitioners have refused the post of AC Fitter Grade-I. We make it clear that as and when any test is held, nothing that has happened so far would come in the way of their taking the test and securing promotion to the higher grade.

6. Subject to the aforesaid clarifications, this petition fails and is dismissed. No costs.


(I.K. RASGOTRA)
MEMBER(A)


(V.S. MALIMATH)
CHAIRMAN

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