

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
N E W D E L H I

O.A. No. 1898/90
T.A. No.

199

DATE OF DECISION 3.1.91

Shri Atul Kishore Sharma Petitioner
Shri B.K. Gaur Advocate for the Petitioner(s)
 Versus
Union of India Respondent
Shri Ramesh Gautam Advocate for the Respondent(s)

CORAM

The Hon'ble Mr.P.C. Jain, Administrative Member

The Hon'ble Mr.J.P. Sharma, Judicial Member

1. Whether Reporters of local papers may be allowed to see the Judgement ? *P*
2. To be referred to the Reporter or not ? *K*
3. Whether their Lordships wish to see the fair copy of the Judgement ? *M*
4. Whether it needs to be circulated to other Benches of the Tribunal ? *M*

JUDGEMENT

(DELIVERED BY SHRI J.P. SHARMA, HON'BLE MEMBER (J))

The applicant, T.C.I. Grade III, Wireless Northern Railway, New Delhi, aggrieved by the order dated 20/27th August, 1990 (Annexure A-1) passed by Dy.C.P.O./Head Quarters, Northern Railway, New Delhi, moved the application under Section 19 of the Administrative Act, 1985 and prayed for the following reliefs :-

- (A) direction that the order dated 20/27.8.90 is void.
- (B) Respondent has no right to interfere with

the ad-hoc position of the applicant and be not reverted and his appointment be regularised on the basis of the seniority.

2. The facts as given out in the application are :-

That the applicant joined service with the respondent w.e.f. 10.11.65. He has been working since April, 1989 as T.C.I. Grade III, Wireless Department on ad-hoc basis. In May, 1990 respondent issued order for holding written test for the post of T.C.I. Grade III on 21.7.90 (Annexure-A 2). The applicant apprehends reversion so the present application has been filed. The grievance alleged by the applicant is that in the said examination, the papers were set only in English language, there was no Hindi version of the question papers and as such there has been violation of Railway Board's circular No. Hindi/75/Delhi-20/19, dated 24.11.1975 (Annexure-4). The applicant also alleged that by virtue of working on the post of T.C.I. Grade III for a number of years he has acquired a right.

3. The respondent contested the application and in reply, took the preliminary objection that the present application is barred under Section 20 of the Administrative Tribunal Act, 1985. That the application also does not declare a cause of action and is vague. It is further stated that the T.C.I. Grade III is a selection post and the applicant failed in the selection. The seniority ⁱⁿ T.C.M. Grade I has nothing to do with the selection. Ad-hocism confers no right on the applicant for regularisation unless the said selection is successfully cleared after

passing the examination. The question papers for the written test were published both in Hindi and English separately and the plea taken by the applicant has no basis at all.

4. We heard the learned counsel for the parties on merit at the admission stage itself. The applicant has filed the application without exhausting departmental remedies. In the present case, the grievance of the applicant was that in the selection test for T.C.I. Grade III the question papers were not in the Hindi version of English language in which the papers were set. This fact is denied by the respondent. However, the written test was held in July, 1990 and after the applicant failed, he raised this objection for the first time, that too in the present application under Section 19 of the Administrative Tribunal Act. The applicant should have represented departmentally which he has not done before coming to this Tribunal. The applicant also claimed the relief of regularisation and also that he be not reverted. In fact there is no order of his reversion, so far as ^{such} the applicant has no cause of action at present. The claim for regularisation on a selection post can at best be as per the Rules governing promotion to the post. Ad-hoc promotion is only a stop gap arrangement and confer no right at all on the applicant. The definition of the word 'Adhoc' has been given in 1978 (2) SLR 334 Pooswami Vs. Union of India, ^{means} for the purpose, stop gap and it does not give any right for a regular appointment or promotion to the selection post. The procedure for selection has to be observed. Unless an ad-hoc appointee clears the

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successful, appointment test and is declared/ he can't claim any right to the promotional post. See Jelha Nand vs. Union of India 1989 (2) SLJ CAT E.B. 1659 and 1981 (3) SLR P.467 Vishvender Mehta vs. State of Bihar (Pat. H.C.).

5. However, the preliminary objection raised by the respondent is not without substance. Firstly there is no specific order against the applicant. Secondly the violation of the Board's circular of 1975 in giving the question papers only in English language without Hindi version has not at all been established by any document or affidavit. The objection to this effect after the applicant was declared unsuccessful and without making any departmental representation or complaint speaks more against the applicant. Thirdly Section 20 of the Act clearly lays down that the Tribunal shall not ordinarily admit an application unless it is satisfied, that the applicant has availed of all the remedies available to him under the relevant service rules as to redressal of grievances. In V.N. Sharma vs. Union of India (1987) 2 ATC 28 (CT Jab.) it was held that even against suspension in contemplation of the Disciplinary Proceedings if filed without exhausting the statutory remedies, the application under Section 19 shall not be entertainable.

6. The applicant aggrieved against the said departmental test for Grade III T.C.I., should have made representation regarding any irregularity committed in the course of that selection and the same has not been done. The application, therefore, is not even maintainable regarding Relief 'A'.

7. The applicant has been working on ad-hoc basis in the post of T.C.I. Grade III, but the Rules lay down selection for the said post which for all purposes is a Selection post. Thus for the relief of regularisation and for consequential benefits arising, therefore, the applicant should have made a representation which has not been done. The application, therefore, is hit by Section 20 of the Administrative Tribunals Act. In view of the above discussion, the application is not maintainable being barred by Section 20 of Administrative Tribunal Act and is dismissed/leaving as premature the parties to bear their own costs.

J. P. Sharma
(J.P. SHARMA)
MEMBER (J).

(P.C. Jain)
(P.C. JAIN)
MEMBER (A)