

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

(18)

O.A./T.A. No. 2595/90 &
222/95 /19

Decided on: 24.1.96

Ajit Singh

(By Shri B.S. Mainee

..... APPLICANT(S)

Advocate)

VERSUS

Union of India & Ors.

..... RESPONDENTS

(By Shri P.S. Mahendru


Advocate)


CO RAM

THE HON'BLE SHRI S.R. ADIGE, MEMBER (A)

THE HON'BLE ~~XXXXXX~~ DR. A. VEDAVALLI, MEMBER (J)

1. To be referred to the Reporter or not? Yes
2. Whether to be circulated to other Benches of the Tribunal? No


(Dr. A. VEDAVALLI)
Member (J)


(S.R. ADIGE)
Member (A)

(19)

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH,
NEW DELHI.

HON'BLE MR. S.R. ADIGE, MEMBER (A).

HON'BLE DR. A. VEDAVALLI, MEMBER (J).

New Delhi: this the 24th January, 1996

1) O.A.No. 2595/90

Shri Ajit Singh,
Asstt. Controller of Stores,
Office of Rail Coach Factory, Tilak Bridge,
New Delhi,
.....Applicant.

Versus.

Union of India through:

1. The General Manager,
Rail Coach Factory,
Kapurthala.
2. The Controller of Stores,
Rail Coach Factory,
Tilak Bridge,
New Delhi
.....Respondents.

2) O.A.No. 222/95

Shri Ajit Singh,
Asstt. Controller of Stores,
Office of Controller of Stores,
Rail Coach Factory,
Tilak Bridge,
New Delhi.
.....Applicant.

Versus

Union of India through:

1. The Secretary,
Ministry of Railways,
Rail Bhawan,
New Delhi.
2. The General Manager,
Rail Coach Factory,
Mapurthala (Punjab).
3. The Controller of Stores,
Rail Coach Factory,
Tilak Bridge,
New Delhi
.....Respondents.

By Shri B.S. Mainee for the applicant.

By Shri B.K. Agarwal & Shri P.S. Mahendru for the respondents

JUDGMENT

By Hon'ble Mr. S.R. Adige, Member (A).

In these two OAs filed by applicant Shri Ajit

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Singh , as common points of law and fact have arisen, they are being disposed of by a common judgment.'

2. In O.A.No.2595/90 applicant Shri Ajit Singh has impugned the order dated 28.11.90(Annexure-A1), regarding selection for promotion to Class II services in Store Department of RCF, Kapurthala and has sought for a direction to the respondents to declare the result of the earlier selection of 1988, before holding a fresh selection, and he be regularised from the date he was promoted as ACOS (on adhoc basis) after having passed the selection.

3. On the other hand, in OA No.222/95 applicant Shri Ajit Singh has impugned the respondents' order dated 30.12.94 (Annexure-A1 of OA No.222/95) cancelling the earlier selection of 1987/88.

4. Shortly stated, the respondents issued a *notification* dated 23.7.87 for filling up six Work Charged posts of Assistant Controller of Stores, Class II (Group 'B') in the Stores Department of Rail Coach Factory, Kapurthala which was followed by three other notifications. Pursuant to the above, the applicant, who was a Depot Store Clerk in RCF New Delhi, appeared and qualified in the written test held on 31.10.87 which was followed by a supplementary written test dated 27.12.87. He also appeared in the viva-voce test held on 17.6.88, but meanwhile as the respondents did not declare the result, he filed OA No.1498/88 apprehending that the persons, who were not declared successful, might be promoted. That OA was disposed of by ex parte judgment dated 15.10.93. In that judgment it was noticed that after filing of that OA on 12.8.88, the applicant had been promoted as ACOS on adhoc basis vide order dated 28.9.88, after having come out successful in the

22

selection. The respondents in their reply in that OA had stated that no other person had been appointed to the post of ACOS on adhoc basis except the applicant and one other candidate, namely Shri M.K. Sharma. As the only relief claimed by the applicant was that the results be declared and the respondents in their reply had neither cancelled the notification of that selection, nor the process of the selection and had fairly admitted that the applicant and one Shri M.K.Sharma had passed the selection, the Tribunal noted that there was no hurdle to declare the result of the selection, as held by notification dated 23.7.87, and subsequent notifications, and accordingly directed the respondents to declare the result of the selection within three months. Thereupon, the respondents(UOI) filed R.A.25/94 praying for review of judgment dated 15.10.93 in O.A.1498/88. In the RA, it was contended that the RCF Kapurthala had no cadre of its own and hence the selections were being made for adhoc appointments and not for regular appointments. The said R.A. was disposed of by order dated 5.9.94. In that order it was noted that another selection had taken place sometime in 1990, which had also been assailed by Shri Ajit Singh through another OA. In the operative portion of the order dated 5.9.94, the respondents were directed to declare the results of the selection, if not already declared, which was notified on 23.7.87 and on subsequent dates, within 3 months from the date of receipt of a copy of that judgment.

5. We have heard Shri B.S.Mainee for the applicant and Shri B.K.Agarwal for the respondents.

22

6. Shri Mainee has strongly asserted that the notification by which the selection was initiated in 1987 was for making regular selection and was not for adjudging suitability for adhoc promotion alone. He has contended that for adhoc promotion, the respondents ^{would have} ~~had~~ not called for Staff from other railways and far off places like Bombay, Madras etc. and the notification dated 23.7.87 clearly shows that it was a special competition held by Respondent No.2 under the orders of the Railway Board to make regular selection for filling up the vacancies in R.C.F. Kapurthala. It is also contended that the respondents' averment that no regular post/cadre was available in RCF Kapurthala, is not correct because the Railway Board vide order dated 21.4.88 had accorded sanction to create 70 posts including 8 for the Stores Department and as such there were regular posts in RCF, Kapurthala even before the cadre was closed on 31.3.90. It has been contended that after the applicant had been selected in the open selection which was held in accordance with the recruitment rules, and the applicant was promoted as a result of the said selection in October, 1988 with the G.M.'s approval, that functionary had no power to cancel the selection, and that also after six years.

7. On the other hand, Shri Agarwal has stated that Notification dated 23.7.87 and subsequent notifications were issued in the context that the Railway Board was feeling difficulty to post suitable officers against the work-charged posts of ACOS in RCF Kapurthala, as a result of which steps were taken by the RCF to fill up the said posts on adhoc basis. The notification had erred in not clarifying that it would not be a regular selection but merely ~~for~~ for adjudging suitability for adhoc promotion against work-charged

23

posts as RCF was only a project not having its regular cadre and hence was not competent to hold selection for any of the departments. Furthermore, he has contended that the number of vacancies from the original notification varied during the selection process itself due to posting of some Store Officers in RCF Kapurthala by the Railway Ministry as ACOS. It has also been averred that the Railway Board's instructions governing promotions from Group 'C' to Group 'B' were not followed in the earlier selections, as a result of which their results were not declared. It has been further averred that the G.M. RCF Kapurthala was fully competent to issue the impugned order dated 26.10.90 wherein he had noted that since RCF Kapurthala had no cadre of its own, ^{the} question of holding selection did not arise and as the cadre had closed, only now, action should now be initiated for making selections, after assessing the available vacancies, and following the prescribed rules for conducting the selection.

8. We have considered the rival contentions of both the parties.

9. We note that in their reply to OA No.2595/90, the respondents have pointed out that before 1.4.90 the RCF Kapurthala did not have a regular cadre as it was a project. The Railway Board was feeling difficulty to post suitable officers against the work-charged posts from other units there, and so it was desired that the RCF Kapurthala should take steps for filling these work-charged posts on adhoc basis. It was only for this reason that the selection was made and two persons, one of whom was the applicant, were promoted as ACOS purely on adhoc basis. The respondents

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24

^{have}
also referred to the salient features of Railway Board's instructions governing promotions from Group 'C' to Group 'B' cadre (Annexure-R1 to the reply in OA 2595/90), and one of those features was that the recommendations of the Selection Committee would be put up for G.M.'s approval and if he did not approve the recommendations, he would record his reasons in writing and order a fresh selection.

10. The respondents have pointed out that the above instructions were not followed in the 1987 Selection, and it is for that reason that the results of the selection were not declared, and eventually had to be scrapped by the orders of the G.M. RCF Kapurthala. However, as those results were not declared earlier, the same was declared vide Memo dated 30.12.94 and communicated to the applicant, pursuant to the order dated 5.9.94 in R.A. 25/94.

11. In so far as the question of regularising the applicant from the date he was promoted as ACOS on adhoc basis is concerned, the respondents have ^{in their reply to OA No 2595/90} contended that this promotion was purely an adhoc promotion and gave the applicant no claim for seniority or regularisation.

12. The applicant did not file any rejoinder in O.A.No.2595/90 to rebut the contentions of the respondents in their reply to that OA, but in his rejoinder to OA 222/95, he has contended that the appointments made pursuant to 1987-88 selection were regular ones, based upon All India Selection, to which the persons had come from all over the country.

13. This contention of the applicant is negatived by the Office Order dated 28.9.88 which clearly states that the appointments of the applicant and

25

one Shri M.K.Sharma are purely on adhoc basis in local arrangement and will not confer any claim either for seniority or for continuance in Class II on a permanent basis.

14. Hence in so far as the first part of the relief in OA No.2595/90 is concerned, the results of 1987-88 Selection have been declared, and as regards the second part of the relief, it is not possible for us to direct the respondents to regularise the applicant from the date he was promoted as ACOS in view of the contents of the order dated 28.9.88 making it clear that the promotion was purely on adhoc basis and would not give any right to claim either seniority or continuance in Class II on a permanent basis. This OA accordingly stands disposed of in terms of what has been stated above.

15. As regards OA No.222/95, it is clear from the instructions governing promotions from Group 'C' to Group 'B' that the Selection Committee's recommendations have to be put up for G.M.'s approval and if the G.M. does not approve the same, he is required to record the reasons in writing and to order a fresh selection. In the present case, the G.M. RCF Kapurthala, who was the Panel Approving Authority passed the order on 26.10.90 noting that since RCF Kapurthala had no cadre of its own, ^{the} question of holding selection did not arise then and as the cadre was closed now, steps should now be initiated for making selection in accordance with the rules and the earlier process should not be perused being irregular and not as per extant rules.

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26

16. These orders were passed by the G.M. having regard to the infirmities noted in the selection proceedings held earlier because the RCF is only a project without its own cadre and furthermore, the number of vacancies had varied during the selection process itself.

17. As the G.M., being the Panel Approving Authority has, as per powers vested in him, cancelled the earlier selection for good and sufficient reasons which have been recorded in writing, we have no cause to judicially interfere with the same. Hence the prayer made to quash the impugned order dated 30.12.94 is rejected.

18. These two OAs accordingly stand disposed of in terms of paragraphs 14 and 17 above. No costs.

A. Veda Valli

(DR.A.VEDAVALLI)
MEMBER (J)

S. R. Adige

(S.R.ADIGE)
MEMBER (A).

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