

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

O.A.324/90

DATE OF DECISION: 18.9.1992

Bhan Singh

.. Applicant

vs.

Union of India through
the General Manager,
Northern Railway, Baroda House,
New Delhi and others.

.. Respondents

For the Applicant

.. Shri V.P.Sharma,
Advocate

For the Respondents

.. Shri B.K.Aggarwal,
Advocate

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THE HON'BLE MR.S.P.MUKERJI, VICE CHAIRMAN

THE HON'BLE MR.T.S.OBEROI, JUDICIAL MEMBER

1. Whether Reporters of local papers may be allowed to see the Judgment? *Yes*
2. To be referred to the Reporter or not? *No*

JUDGMENT

(Hon'ble Shri S.P.Mukerji, Vice Chairman)

In this application the applicant who has been working as a Greaser in the Northern Railway has challenged his non-regularisation as a Greaser, when according to him, respondents 6 to 11 who were his juniors, were regularised. According to the applicant he passed the trade-test for promotion as Greaser in accordance with the note dated 30.5.1988 at Annexure-A2 which states that respondent No.3 conducted a test for the applicant and he was found quite fit and that he may be utilised against the vacancy of a Greaser.

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The applicant has since then been working as a Greaser without any break, but he has not yet been regularised as a Greaser whereas respondent Nos. 6 to 11 who had been confirmed as Khalasi after the applicant were promoted as Greaser on 20.11.89.

2. In the counter affidavit the respondents have stated that respondents 6 to 11 do not figure in the seniority list in which the applicant's name figures and that the applicant was temporarily promoted as Greaser on ad hoc basis on localised seniority without passing the trade test. The charge of Greaser was taken away from him on 19.12.89 and he was reverted as Khalasi Helper on 3.1.90. They have stated that respondents 6 to 11 were promoted to the post of Greaser after passing the trade test vide the letter dated 11.3.1985 at Annexure R-1. On the other hand, the applicant passed the trade test later vide the communication dated 24.4.90 at Annexure R-2. They have also produced a document at Annexure R-3 bearing his signature to prove that the applicant had appeared in the trade test on 3.11.1989. They have also produced a communication dated 2.11.89 at R-4 enclosing a letter signed by the applicant dated 2.11.89 in which the applicant had clearly stated that on 15.11.88 he had been called for taking the trade test for Greaser, but because his children were indisposed, he did not appear in the trade test. He sought to be trade-tested in that communication.

3. We have heard the arguments of the learned counsel for both the parties and gone through the documents carefully. A similar case was decided by a Division Bench

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presided over by the Hon'ble Chairman Mr. Justice V.S. Malimath on 30th July, 1992 in D.A.45/87. In that case also, the applicant therein was asked to take a regular test for appointment as Coach Attendant on regular and division-wise basis, but he declined to take the test on the ground that he had taken the test earlier. The Division Bench held that the applicant's original appointment therein was only on ad hoc basis and was a local arrangement and he cannot claim a right to the appointment as Coach Attendant without selection in accordance with the statutory rules. Since in the present case also, the applicant had only taken a local test and had on his own, declined to take the regular trade test in 1988, he cannot claim the benefit of that promotion which was made available to respondents 6 to 11 who had appeared in that test and had qualified for promotion. Accordingly the application has no force and has to be rejected. We order accordingly. There will be no order as to costs.

18.9.92
(T.S. OBEROI)
JUDICIAL MEMBER

18.9.92
(S.P. MUKERJI)
VICE CHAIRMAN

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