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CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH: NEW DELHI

O.A. No. 10/1991

New Delhi this 15th Day of May 1994

Hon'ble Member Shri J.P. Sharma, Member(J)  
Hon'ble Member Shri S.R. Adige, Member(A)

1. Vidyut Fitter (Pump) Employees,  
Union Kota Division(  
(Wagon Repair Shop Sahit)  
through Shri Madar Bux s/o  
Shri Jamaluddin Electric Fitter Pump,  
President, Electric Fitter Pump Employees  
Union Kota Division, Kota
  2. Mr. J.K. Khanna,  
S/o Shri Dewan Chand,  
Electrical Fitter (Pump),  
Quarter No. 748 C, Railway New Colony,  
Kota Junction, Kota ... Applicant
- (By Advocate Shri Rajinder Singhvi)

Vs.

1. Union of India,  
through General Manager,  
Western Railway, Church Gate,  
Bombay.
  2. Chairman Railway Board,  
Rail Bhawan,  
New Delhi.
  3. Divisional Railway Manager,  
Western Railway, Kota Division,  
Kota.
  4. Senior Divisional Electrical Engineer,  
Western Railway, Kota Division,  
Kota.
  5. Divisional Personnel Officer,  
Kota Division, Western Railway  
Kota. ... Respondents
- (By Advocate Shri Shyam Moorjani)

Hon'ble Member Shri J.P. Sharma, Member (J)

Applicant No. 1 is the Association and  
Applicant No. 2 is one of the beneficiaries jointly  
filed this application for the reliefs that the respon-  
dents be restrained called for the petitioners to  
appear in the trade test for Grade III examination for  
promotion to Grade II. They have also prayed for  
further direction to promote the applicant after they

have cleared the Grade II and Grade I examination.

2. The case of the applicants is that prior to 13.11.1982, the applicant No. 2 was working on the post of Stationary Plant Attendant (SPA) in the scale of Rs. 210-290. The next higher promotion is to the scale of Rs. 260-400. The next promotion is to the scale of Rs. 330-480, a above category highly skilled. The ultimate promotion to Grade I is in the scale of Rs. 380-560. The railway Board's by the Circular dated 13.11.1982 re-classified some of the skilled and semi-skilled jobs. The trade presently designated as semi-skilled was re-classified as skilled in the Grade of Rs. 260-400. The initial allotment of skilled grade of semi-skilled staff will be on the basis of seniority-cum-suitability. The eligible staff being <sup>not</sup> subject to any further trade test. The further promotion to one of the trades in that group will be on the basis of trade test prescribed for the particular trade for which the incumbent have developed an aptitude and skill. By this it is contended by the applicant Ng.2 <sup>Kash Ki</sup> will be treated as skilled artisan staff with effect from 1.8.1978 in compliance with the Circular of the Railway Board dated 13.11.1982. The applicant has also made a reference to another letter of Director of Establishment and highlighted Para 4 of the letter that future promotions from unskilled to Khalasi-Helper in semi-skilled scale and from semi-skilled scale to the skilled scale after (re-classification from the existing semi-skilled scale grade) upgrading and revision of the existing trade test syllabi are under consideration of the Board. Till this is notified the existing standard trade test as prescribed for the semi-skilled scale may be followed. For future

promotion for un-skilled to Khamasi-Helper in semi-skilled grade may be done in the present on the basis of suitable aptitude test which may be locally evolved. The applicant has also stated that as per the Divisional Officer of Kota dated 7.10.1985 and further clarified the re-classified posts of semi-skilled to skilled is to be brought to the percentage of 20:25:55. The applicants have also stated that the Kota Division vide order dated 7.10.1985 further clarified the Board's letter and stated that re-classified posts of semi-skilled to skilled, as a result of revised percentage, if a group III employees' scale Rs.260-400 becomes eligible for promotion to Group I he should be trade tested first for Group II and if he passed, he should be trade tested for Group I. The other Division of the Western Railway followed and implemented the same guidelines. As such the applicant submitted the joint representation but to no effect. The grievance of the applicant is that when they had been upgraded to Grade II and already working in Grade II they cannot be trade tested again for Grade III.

3. The respondents in their reply stated that semi-skilled posts were upgraded to the skilled posts in the scale of Rs. 260-400 w.e.f.1.8.1978 for the purpose of payment only and not for any other purpose. The SPAs were also called for, for the trade test in cognate trade, for further promotional chances, but accordingly appeared in the trade test and cleared the trade test and have already been promoted as ELF Grade II and I and those who did not appear in the trade test are still working as SPAs. Accordingly all the persons who had passed have been

promoted as ELF Grade II and I respectively. The stand of the respondents that the applicants have to qualify the test before they can be promoted to the next higher grade. No junior has been promoted as ELF Grade II and I without qualifying the trade test. The SPAs had been designated as ELF (Pump) and the incumbents working against these posts cannot be treated as ELF (pump) till they have passed the trade test for the same. Respondents have not disobeyed any direction of the Railway Board nor any of the order of discriminatory nor there is any violation of the circulars, orders, guidelines as alleged.

4. We have heard the learned counsel for the parties at length and have also gone through the rejoinder filed by the applicant. The circular of the Railway Board dated 13.11.1982 is material in this respect. Para 2 of the circular lays down that trades presently designated as semi-skilled to be re-classified as skilled in the grade of Rs.260-400. 60% of the existing un-skilled artisan strength in production units and workshops (all departments) should be allotted the semi-skilled grade (Rs.210-290) and designated as Khalasi-Helper. 50% of the existing strength in un-skilled artisan category in the open line Establishment (All departments) and RDSO should be allotted the semi-skilled grade Rs. 210-290 and designated as Khalasi-Helper. The fixation of pay in respect of staff re-classified as said above be done on promotion basis with effect from 1.8.1980. The higher fixation on the basis of the above re-classified will be criterion effected from 1.1.1982. By virtue of sub-para (viii) of para 2, the initial allotment of semi-skilled grade to the un-skilled staff and skilled grade to semi-skilled staff in terms of the orders will be on the basis of seniority-cum-suitability

without eligible staff being subjected to any further trade test. It ~~is~~ further lays down in Para 7 of the note that promotion of un-skilled staff to semi-skilled grade as Khalasi-Helper will be only after passing the requisite Trade Test and not on the basis of seniority alone and separate instructions will be followed in regard to trade test in semi-skilled categories for future promotion. This is evident therefore that when the applicant have already been upgraded from the fedder grade to III then the contention of the respondents that the upgradation was only for the purpose of payment and not for any other purpose cannot be given any weight. The applicants have <sup>been</sup> ~~given that~~ <sup>the</sup> benefit from 1.8.1978. They cannot be again trade tested in the scale of Rs.260-400 when they have already discharged the function of the skilled posts for a number of years to the satisfaction of the authorities. Again confronting them for the trade test for Grade III not only be violation of the circular of 13.11.1982 but also against the principle of natural justice. Suppose these incumbents do not qualify in the trade test for the skilled posts of Grade III then they cannot be reverted to the fedder grade as they have already been given the benefit of upgradation with effect from 1.8.1978. It may be that for further trade test for promotion to Grade II, their performances can be judged on the basis of the circular prescribed for ELF Grade II and those who passed can be given that benefit. In fact <sup>y</sup> they have not attained the requisite capability in Grade III, They would naturally be not come upto the mark in the trade test prescribed for ELF Grade II, and thereafter for Grade I. It is a fact that the applicant did not take the trade test for the skilled grade III and thereby they have not <sup>been</sup> ~~given~~ <sup>h</sup>

the promotion. The respondents have not followed their own guidelines. The D.O. letter dated 2.12.1982 by the Joint Director (Establishment), Railway Board in para 4 clearly mentioned that the letter of Railway Board dated 13.11.1982 promotions of skilled and semi-skilled artisans staff consequent to re-classification should be made on the basis of the seniority. For future promotion from unskilled to Khalasi-Helper in semi-skilled grade and from skilled to the un-skilled grade (re-classified from the existing semi-skilled grade) <sup>upgraded</sup> updated and revision of the existing trade test syllabi are under consideration of the Board. Till such time the classification is received the existing standard trade test syllabus as prescribed for the semi-skilled trade may be followed. The Western Railway again by letter No. PS 108, EP No. 830/45/3 dated 24.4.1984 further notified the Railway Board's letter dated 4.4.1984 for further guidance where for giving the benefit for promotion against the highly skilled Grade II and I posts upgraded under those orders. The Railway Board's letter of 4.4.1984 in Para 2(ii) has further interpreted this fact by stating that the revision of standard trade test syllabi has become necessary as a result of re-classification of a large number of semi-skilled posts. This work will be undertaken soon. But till such time trade test syllabi are revised, the present trade test syllabi shall be followed. For promotions to the semi-skilled trades re-classified the skilled trades, the existing syllabus prescribed for the erstwhile semi-skilled trade will continue to be followed. As an example for promotion to the category of Hammer-man which has been re-classified as skilled, the present syllabus for Hammer-man category will be continued to be followed.

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The Hammer-man though now skilled will seek further avenue of promotion as blacksmith after trade test according to the syllabus prescribed for promotion to the category of Blacksmith. The Divisional Railway, Kota again on 13.8.1988 clarified the Board's letter dated 13.11.1982 that 60% of the existing un-skilled artisan strength in Production Units and Workshops and 50% of the un-skilled artisan categories in the open line establishment and RDSO TO THE Extent applicable were allotted semi-skilled scale Rs.210-290 and designated as Khallasi-Helper. It was decided that the above percentage should <sup>be</sup> uniformly enhanced to 70% and be allotted the semi-skilled grade of Rs.210-290. Further in Para 6 it has been stated that the existing category of HSK Grade I and HSK Grade II and semi-skilled in Grades Rs.380-560, 330-480 and 260-400 should be given revised standard designation as skilled Grade I, skilled Grade II and skilled Grade III respectively. The respondents have to follow the above instructions in letter and spirit. When the applicants have already been placed in skilled Grade III with effect from August 1978, it does not justify that there should be again trade test for skilled Grade III. The contention of the respondents that this has been only done for the payment of scale of Rs. 260-400 and not for any other purpose cannot be accepted from the aforesaid circulars issued by the General Manager or by the Kota Division. The applicants have also filed CMP No. 1421/93 that the respondents be directed to stay the operation of holding any trade test for grade III or in the alternative the respondents be directed not to pronounce

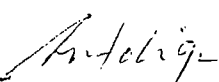
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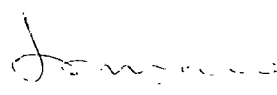
the result of the selected candidates for Grade II and Grade III ELF. Since we have already considered the case of the applicants on merit so no such interim direction is necessary.

4. The application, therefore, is disposed of as follows:

- 1) The respondents not to trade test the applicants from Grade III examination;
- 2) The respondents are at liberty to trade test the applicants for promotion to Grade II by holding the trade test on the basis of revised syllabi which may also include the trade test which is mandatory for Grade III and if the applicants clear that test, they may be given promotion to Grade II and in case they clear the examination of trade test as said above, then they can be trade tested as per the extant rule or Grade I examination.
- 3) The applicants to be given promotion to the higher grade after they pass the trade test as said above. However, the seniority will be reckoned from the date they are empanelled and posted to the higher grade .

In the circumstances, the parties to bear their own costs.

  
(S.R. Adige)  
Member(A)

  
(J.P. Sharma)  
Member(J)