

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH: NEW DELHI

OA NO.1585/91

DATE OF DECISION:19.2.1992

SHRI ANIL KUMAR SHARMA

...APPLICANT

VERSUS

UNION OF INDIA

...RESPONDENTS

CORAM:

THE HON'BLE MR. T.S. OBEROI, MEMBER (J)

THE HON'BLE MR. I.K. RASGOTRA, MEMBER (A)

FOR THE APPLICANT

SHRI J.K. BALI, COUNSEL

FOR THE RESPONDENTS

SHRI O.P. KSHTARIYA,
COUNSEL.

JUDGEMENT (ORAL)

(DELIVERED BY HON'BLE MR. I.K. RASGOTRA, MEMBER (A))

Heard the learned counsel for both the parties.

2. The applicant joined as Assistant Station Master (ASM) in the grade of Rs.330-560 on 14.6.1977. He was promoted to the next grade of ASM in the pay scale of Rs.425-640. The respondents called for a selection to fill up the vacancies of Assistant Yard Master (AYM) in the pay scale of Rs.455- 700 vide letter dated 20.2.1986 (page 21 of the paper book). The applicant appeared in the selection test as is apparent from respondents' letter dated 1.4.1986 (Annexure A-5) according to which the applicant was directed to report to his station for duty after having attended the selection test on 31.3.1986 and 1.4.1986. There is no indication either in the O.A. or in the counter filed by the respondents that the selection held for the post of AYMs was finalised and the results thereof notified. However, vide order dated 7.4.1986 the applicant was promoted as AYM on adhoc basis. The said order further provided that all the employees so promoted shall have to pass selection test to be held in future for the post.

of AYM like other employees. While working as AYM (ad hoc) the applicant was selected for the post of Transportation Instructor in the Zonal Training School (ZTS), Chandausi in the pay scale of Rs.1400-2300. Thereafter the respondents invited applications for selection for the post of Section Controller (SNCL) in the grade of Rs.1400-2600 to fill up 5 vacancies in that grade vide letter dated 16.6.1989. The result of the selection was notified vide Annexure A-1 which is the impugned order dated 31.7.1990. According to the said order, four persons were placed on the panel two belonged to the category of Guards and other two to the category of ASMs. The applicant submits that there is a fixed quota for the various feeder categories for promotion to the post of SNCL as under:-

- i) 30% for Guards;
- ii) 30% for ASMs of Rs.1400-2300 and Rs.1200-1240;
- iii) 15% for AYMs (Rs.1400-2300); and
- iv) the balance 25% of the posts are reserved for Traffic Apprentices.

While the applicant was working in the ZTS, Chandausi as Transportation Instructor from 18.7.1987, the respondents revised the channel of promotion vide their order No.757E/42(EIB) dated 22.7.1987. According to the revised channel of promotion the ASMs in the grade of Rs.1200-2040 (Rs.330-560) alone are eligible for selection to the post of AYMs. Thus the applicant who was ASM in the grade of Rs.1400-2300 stands excluded from the feeder categories for the post of AYM. The grievance of the applicant, therefore, is that he has been deprived for selection to the post of AYM which post he

was holding on adhoc basis from 7.5.1986 to 18.7.1987 when he joined ZTS, Chandausi and further he has also not been placed on the panel for selection for the post of Section Controller (Rs.1400-2600).

3. By way of relief the applicant has prayed that he should be regularised as AYM from the date of his posting as such viz. 9.4.1986 and that he should be considered for selection as Section Controller against the AYM quota by a Review Selection Board.

4. The stand of the respondents, as apparent from their counter-affidavit is that the applicant went to the ZTS, Chandausi of his own volition and therefore now "he has no right to come back forcibly as adhoc AYM or to claim regularisation as AYM particularly at this stage when the post of AYMs have been reduced from 17 to 14." Regarding the selection held for the post of Section Controllers they have admitted that the applicant appeared for the test but "since this was a selection the applicant cannot claim his selection as a matter of right."


5. We have considered the matter very carefully and perused the record. We are of the view that the selection held on 31.3.1986 and 1.4.1986 for the post of AYMs apparently was only for placement on adhoc basis. If it was a regular selection there was obviously no need to make a provision in the order dated 7.4.1986 that "all these employees who have been appointed as AYMs on adhoc basis will have to pass selection test to be held in future for the post of AYMs like other employees." Thus when the applicant proceeded to Chandausi he was only an adhoc AYM.

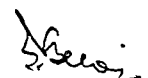
6. Admittedly, he appeared for the selection for the post of Section Controller and there is no specific averment to the effect in the counter of the respondents that he failed to qualify or he was found

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unfit for the post of Section Controller. In the circumstances there appears to be a case that the applicant should be reviewed by a Review Selection Board for consideration for appointment to the post of Section Controller, particularly, when the vacancy falling in the quota of AYMs has not been filled up. We note that applicant was allowed to appear in the selection for SNCL when he was adhoc AYM. The other issue whether the applicant can be considered for eligibility for appearing in the selection test for the post of AYM, the factual position is that, had he continued as AYM (adhoc) he would have appeared for the selection as and when it was held and depending upon his performance in the selection would have been regularised. In the meantime, however, he was selected for an ex-cadre post in ZTS which he joined in June, 1987 in Chandausi. We are, therefore, of the view that if any selection for the post of AYM was held during the period when he joined the ex-cadre post in ZTS, Chandausi and the date the channel of promotion was revised on 22.7.1988, the applicant shall also be eligible for consideration for selection for the post of AYM and that this shall be done by a Review Selection Board. We order accordingly.

The O.A. is disposed of, as above. We further direct that the above directions shall be carried out by the respondents as early as possible but preferably within 12 weeks from the date of communication of this order. No costs.


(I.K. RASGOTRA)
MEMBER(A)


(T.S. OBEROI)
MEMBER(J)

February 19, 1992.