

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,  
PRINCIPAL BENCH,  
NEW DELHI.

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Date of Decision:

4.3.93

OA 2765/91

RAJ KUMAR AGNIHOTRI & ORS. ... APPLICANTS.

Vs.

UNION OF INDIA & ORS. ... RESPONDENTS.

CORAM:

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

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

For the Applicant ... SHRI B.S. MAINEE.

For the Respondents ... SHRI O.P. KSHATRIYA.

J U D G E M E N T

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

The applicants Raj Kumar Agnihotri and 7 others are Diesel Cleaners (unskilled) in the scale of Rs. 750-940 (RPS) under the Dy.CME Northern Railway, Shakurbasti, Delhi, and their basic grievance is against the holding of trade test/viva-voce test at the time of promotion to the semi skilled posts of Diesel Cleaner Helper in the scale of Rs.800-1150 (RPS).

The applicants contend that as a result of restructuring, by Railway Boards letter No.E(P&T)1/82/OC/a dated 13.11.82, 50% of the unskilled Artisan strength in production unit workshop (all departments) were to be allotted semi skilled grade (Rs.800-1150) and similarly 50% of the existing strength in the unskilled category in the

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open line establishments (all departments) were to be allotted the semiskilled grade of Rs.800-1150 and designated as Khalasi Helper. This restructuring/upgradation was effective from 1.8.78, and promotion from unskilled to semiskilled and from semiskilled to skilled posts were to be based on seniority-cum-suitability without any trade test/viva-voce test. On 10.7.85, the 50% promotion posts were raised to 70%, and soon after by letter dt. 19.7.85 (Annexure A-2) the respondents directed that while implementing these orders for initial allotment of unskilled to semiskilled grade, the basis would be seniority-cum-suitability without subjecting the eligible staff for any trade test as a one time exception. The respondents further directed the Zonal Railways that the Railway administration would prescribe the appropriate trade test syllabus for posts being upgraded from unskilled to semiskilled, and semiskilled to highly skilled, but no such syllabus has been prescribed, and in the meantime, by letter dt. 17.9.91 (Annexure A-1), the respondents have initiated action to fill up nearly 250 vacancies in semiskilled level on promotion basis <sup>through</sup> viva-voce test.

The respondents, on the other hand, contend that the restructuring benefit <sup>of M</sup> ~~from~~ promotion from unskilled to semiskilled level was allowed to such of the seniormost staff who were in the grade of Rs.750-940 on the crucial

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date 1.8.78/1.1.84 on the basis of seniority - cum - suitability without requiring the staff to appear for a trade test/viva-voce test as a one time exception, and was not to be applicable for all times. A trade test comprising of a practical test and oral test had been devised based upon the day to day work being performed by the candidates while on duty, to which they were being subjected for consideration for promotion, and records of their performance are maintained to eliminate any chances of irregularities.

We have heard Shri B.S. Mainee, learned counsel for the applicant, and Shri O.P. Kshatriya, learned counsel for the respondents.

The applicants have themselves admitted in paragraph 4.6 of their application that by respondents letter dated 19.7.85, the initial allotment of unskilled to semiskilled grade would be on the basis of seniority-cum-suitability without any trade test/viva-voce test as a one time exception. In other words, this benefit accrued to the seniormost staff in the grade of Rs. 750-940 on the crucial date 1.8.78/1.1.84 as a result of restructuring as a one time exception and does not imply that this benefit would continue to be available at all times<sup>in</sup> in the future also. Even otherwise, promotions have to be made on the

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basis of seniority-cum-suitability, not seniority alone, and one of the accepted methods for judging suitability is to test the skills of the candidates with reference to their day to day work, through a practical test and oral test, to judge whether <sup>an</sup> ~~they~~ <sup>are</sup> ~~me~~ fit to be promoted to the next higher category.

Under the circumstances, no interference in the existing procedure is warranted and this application is accordingly dismissed. No costs.

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

*J.P. Sharma*  
4.3.93  
( J.P. SHARMA )  
MEMBER (J)