

Central Administrative Tribunal
Principal Bench, New Delhi

(17)

New Delhi this the 25th day of July 1995. OA No.1021/91

Hon'ble Mr A.V.Haridasan, Vice Chairman (J)

Hon'ble Mr K.Muthukumar, Member (A)

Raghu Nath Dubey
Highly Skilled Electric Fitter
under Chief Traction Foreman
Central Railway
Gwalior

...Applicant.

(By Advocate: Shri B.S.Mainee)

Versus

Union of India through

1. The Divisional Railway Manager
Central Railway
Jhansi

2. Senior Divisional Electrical Engineer (TRD)
Central Railway
Jhansi

3. The Chief Traction Foreman
Central Railway
Gwalior

...Respondents.

(By Advocate: Shri H.K.Gangwani)

O R D E R (Oral)

Hon'ble Mr A.V.Haridasan, Vice Chairman (J)

The applicant who was initially engaged as daily rated casual labour in Railway Electrification, Jhansi Division on 30.5.80 was promoted as an Electric Fitter grade Rs.950-1500. He was further promoted as Fitter (Class III) w.e.f. 26.4.1982. He was granted temporary status w.e.f. 1.1.1984 and was granted 1/ scale of Rs. 260-400 applicable to Electric Fitter. He was further promoted as Highly Skilled Fitter in the pay scale of Rs. 330-480 w.e.f. 1.5.1984. The scale of Rs. 330-480 was revised to Rs. 1200-1800 w.e.f. 1.1.86. He has all along been working as Highly Skilled Fitter right from 1.5.84 without any break. His grievance arose on the apprehension that the respondents would empanel him and absorb him in regular service only in class IV as the respondents indicated that he would be screened only for the post of Khalasi. In these

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circumstances, relying on Railway Board's circular No.E(NG)/65/CL/4 dated 19.7.65 which provided that casual labour promoted to skilled or highly skilled posts or recruited in such posts against casual vacancies either in Workshop or elsewhere may be absorbed in regular vacancies in skilled grade after passing the requisite trade test, to the extent of 25% of the vacancies reserved for departmental promotees, and on the dictum of the ruling in OA 2720/90 Shiv Kumar Sharma Vs. UOI & Others; OA No.32/91 R.K.Tiwari & others Vs. UOI and OA 392/91 Jasvinder Singh & others Vs UOI & Others, the applicant claims that he is entitled to be regularised as Highly Skilled Fitter in the scale of Rs.1200-1800 and is not liable to be reverted and appointed as Gangman in class IV. Therefore the applicant has filed this application for a direction to the respondents to regularise the services of the applicant as highly skilled Electric Fitter in which post he has been continuously working for the last 7 years, and not to revert him.

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2. There was a prayer for an interim order restraining the respondents from reverting the applicant or terminating his services till final disposal of this application.

3. When the application was admitted by order dated 2.5.91, the respondents were directed to maintain the status quo as regards *m* continuance of the applicant as highly skilled Electric Fitter. On the basis of the above interim order, he continues as such.

4. The respondents in their reply have denied the allegation that the applicant has been working as a highly skilled fitter. They contend that the applicant is entitled to be absorbed as a highly skilled fitter class III only towards 25% of the promotion quota after trade test and screening. They have also contended that the applicant was found not suitable when he was screened on 4.2.87 and 5.2.87 against

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recruitment of 12½% of MRCL. The respondents, therefore, contend that the claim of the applicant that he should be regularised as class III is not sustainable. The applicant in his rejoinder has categorically denied the allegation that he was called for a trade test and was found unsuitable.

5. We have gone through the pleadings in the case and also heard learned counsels for the parties. It is not in dispute that from 1984 onwards, the applicant has been working as highly skilled fitter. We have perused the service sheet records and personal file of the applicant, which shows that from 1984 onwards the applicant has been working as highly skilled fitter Grade.II (MRCL). The respondents have not brought to our notice any record to show that the applicant was ever trade tested and was found unsuitable. Therefore the contention of the respondents that the applicant was trade tested and was found unsuitable ^{for promotion} towards 12½% of the promotion quota has not been established. Since the claim of the applicant is only for regularisation as highly skilled Electric Fitter, and the respondents admit in their reply that the applicant is entitled to be so absorbed but only after trade test and screening, we are of the considered view that as the controversy involved in the case has narrowed down to a considerable extent, the application can be disposed of with directions to the respondents to consider absorption of the applicant after the required trade test, as a highly skilled Electric Fitter Grade-II towards 12½% of the vacancies in the promotion quota in his turn and that till such date ~~as~~ he is so absorbed, he may be continued as MRCL highly skilled fitter subject to the risk of retrenchment for want of a vacancy. The application is disposed with the above directions without any orders as to costs.


(K. Muthukumar)
Member (A)


(A.V. Haridasan)
Vice Chairman (J)