

**CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH  
NEW DELHI**

12

O.A. NO.262/2004

This the 4<sup>th</sup> day of February, 2005.

**HON'BLE SHRI V. K. MAJOTRA, VICE-CHAIRMAN (A)**

**HON'BLE SHRI SHANKER RAJU, MEMBER (J)**

Birbal Singh S/O Ram Bahadur Singh,  
Technician Motor Driver Gr.II,  
Working under A.XEN/Br/Line,  
Northern Railway, Tilak Bridge,  
New Delhi. R/O 44/5, Railway Colony,  
Delhi Kishan Ganj, Delhi-110007.

... Applicant

( By Shri M.L. Sharma, Advocate )

versus

1. Union of India through  
General Manager, Northern Railway,  
Headquarters Office, Baroda House,  
New Delhi.
2. Chief Bridge Engineer,  
Northern Railway,  
Headquarters Office,  
Baroda House, New Delhi.
3. Pratap Lal S/O Buttal Lal,  
working as Technician Motor Driver Gr.I  
under Asst. Executive Engineer (W),  
Northern Railway, Tilak Bridge,  
New Delhi.
4. Baboo Singh S/O Parma singh,  
Technician Motor Driver Gr.I  
under Asst. Executive Engineer (W),  
Northern Railway, Tilak Bridge,  
New Delhi.
5. Ramesh Kumar S/O Harbans Lal,  
Technician Motor Driver Gr.I,  
under Asst. Executive Engineer (W),  
Northern Railway, Tilak Bridge,  
New Delhi.
6. Trilok Chand S/O Salig Ram,  
Technician Motor Driver Gr.I,  
under Asst. Executive Engineer (W),  
Northern Railway, Tilak Bridge,  
New Delhi. ... Respondents

( By Shri R.V.Sinha, Advocate )



(13)

## ORDER (ORDER)

**Hon'ble Shri V.K.Majotra, Vice-Chairman (A) :**

Applicant has challenged Annexure A-1 dated 2.1.2004 whereby respondents have cancelled the suitability test conducted on 25.8.2003 for the post of Tech-I Driver grade Rs.4500-7000/RPS.

2. The facts in brief of the case are that applicant was appointed as Khalasi on 29.11.1977. He was accorded temporary status on 29.3.1978. He passed the trade test and was promoted in Group 'C' as Tech-III Motor Driver grade Rs.260-400/950-1500. He was granted promotion on 28.11.1991 as Tech-II Motor Driver grade Rs.1200-1800/4000-6000. Applicant appeared in the NBR promotion trade test for promotion as Tech-I Motor Driver on 25.8.2003. However, vide the impugned orders, respondents cancelled the trade test held on 25.8.2003 without disclosing any reasons and without putting applicant on notice.

3. The learned counsel of applicant contended that applicant had passed the trade test in 1981, much earlier to respondents 3 ~~to~~ 6, and as such, become entitled for higher seniority and earlier promotion as Tech-I Motor Driver grade Rs.4500-7000 before or from the date of promotion of his juniors, i.e., respondents 3 to 6. The learned counsel further submitted that vide Railway Board's letter No.PC-III/96/FE-1/3 dated 19.8.1999 instructions on the subject of trade test for promotion from Technician Grade-II to Technician Grade-I in the artisan category were modified to the extent that instead of arranging promotion from Technician Grade-II to Grade-I through trade test (practical and *viva voce*), it will henceforth be through ACRs as the basis. In this light, the learned counsel contended that applicant should not be subjected to any further trade test and should be considered for promotion to Technician Grade-I on the basis of his ACRs only and accorded promotion from the date his juniors have been promoted as such.



(14)

4. The learned counsel of respondents stated that respondents 3 to 6 are much senior to applicant as S/Shri Pratap Singh, Baboo Singh, Ramesh Kumar and Trilok Chand (respondents 3 to 6) have been working as Driver Grade-III as on 14.7.1973, 10.12.1976, 19.7.1977 and 12.11.1977, while applicant was promoted as Driver Grade-III w.e.f. 4.3.1981 and as such, was junior to these personnel. The learned counsel pointed out that in terms of Tribunal's orders dated 31.5.2000 in OA No.1257/1997, applicant has been granted benefit of pro forma fixation with Shri Sam Sewak, Driver Grade-II w.e.f. 28.11.1991 and assigned seniority above and over S/Shri Ram Sewak and Sarwan Kumar. Thus applicant has become now the seniormost Grade-II in grade Rs.4000-6000 in seniority unit of AXEN/BL/TKJ. The learned counsel admitted that as per instructions under PS No.11868/99 (Annexure R-4), promotion from Grade-II in scale Rs.4000-6000 to Grade-I in scale 4500-7000 would be considered on the basis of ACRs, service book etc. The learned counsel pointed out that the suitability test held on 25.8.2003 was cancelled for administrative reasons and that the next course of action in this regard is under investigation by the administration.

5. We have considered the rival contentions as also perused the material on record. Applicant has not been able to establish how he is senior to respondents 3 to 6 in Driver Grade-II. Certainly on the basis of Tribunal's orders dated 31.5.2000 in OA No.1257/1997 he was senior to Shri Ram Sewak and Shri Sarwan Kumar. Respondents have accorded applicant pro forma seniority as Grade-II w.e.f. 28.11.1991 over and above S/Shri Ram Sewak and Sarwan Kumar. Respondents have admitted that as per instructions contained in PS No.11868/99 (Annexure R-4), procedure for promotion from Technician Grade-II to Grade-I has been modified inasmuch as it is not necessary to hold trade test (practical and *viva voce*). This promotion has to be considered merely on the basis



of ACRs and working report for the period worked during the year within which promotion is due.

6. Having regard to the facts and circumstances of the case as discussed above, Annexure A-1 is quashed and set aside. Respondents are directed not to conduct any fresh trade test for the post of Tech-I Motor Driver grade Rs.4500-7000/RPS. Respondents are directed to consider the claim of applicant for promotion to Tech-I Motor Driver grade Rs.4500-7000 /RPS in terms of Railway Board's instructions (Annexure R-4) only by taking into consideration the ACRs for the last three years in addition. Working report for the period worked during the year within which the promotion is due. On finding the applicant suitable for such promotion as above, he should be granted notional benefits from the date his junior was so promoted and actual benefits prospectively. Respondents are further directed to consider and decide applicant's claim for promotion to the post of Tech-I Motor Driver grade Rs.4500-7000 as directed above expeditiously and preferably within a period of two months from the date of communication of these orders.

7. The OA is allowed accordingly. No costs.

S. Raju

( Shanker Raju )  
Member (J)

/as/

V. K. Majotra

( V. K. Majotra )  
Vice-Chairman (A)

4. 2. 05