

Central Administrative Tribunal,
Principal Bench: New Delhi

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O.A. No. 599/92
New Delhi this the 25th day of April 1997

Hon'ble Shri K.Muthukumar, Member(A)
Hon'ble Dr. A. Vedavalli, Member(J)

Shri Raj,
S/O Shri Mohan Singh,
R/O House No. 9844,
Ahata Thakurdas,
Sarai Rohilla,
Delhi.

.....Applicant

(By Advocate: Shri O.P.Gupta)

Versus

1. Union of India, through .
General Manager,
Northern Railway,
Baroda House,
New Delhi.

2. The Divisional Railway Manager,
Northern Railway,
Bikaner Division,
Bikaner.

.....Respondents

(By Advocate: Shri P.S.Mahendru)

ORDER(Oral)

By Hon'ble Shri K.Muthukumar, Member(A)

Applicant who joined the service under the respondents as Pointsman Grade 'B' was promoted as Lever-man in Grade 950-1500. He also claims to have worked as Switchman in the higher grade of Rs.1200-2040 from time to time and has been continuously working as Switchman from 10.7.1987. He is aggrieved that the respondents have not permitted him to participate in the selection/test for the regular post of Switchman Grade 'B' which was to be held on 7.3.1992. He also claims to have been entitled to be called for the said post and therefore prays that a suitable direction may be issued to the respondents to permit the applicant to participate in the selection/test for the above said post, which was scheduled to be held on 7.3.1992. The applicant also claims that he has received competency

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certificate from the respondents to work as Switchman and therefore claims prescriptive right to this post. He also submits that he belongs to S.C. community and is also, therefore, entitled to undergo the selection post. On the basis of the interim order passed by this Tribunal respondents were directed to permit provisionally the applicant to appear in the said post.

2. Respondents have denied that the applicant was promoted to the post of Leverman/Switchman. They have averred that the applicant was working as Switchman on local arrangement basis for which he was also given officiating allowances from time to time. This local arrangement does not entitle him to be considered for the post of Switchman on regular basis. Respondents submit that the post of Switchman is a selection post to be filled up as per instructions circulated under Railway Board's letter dated 30.12.85 (PS No. 8892) according to which 50% of the vacancies of Switchman will be filled by staff having VI standard qualification by normal promotion from categories of Leverman, cabinman through selection based on written examination and viva-voce test and the other 50% vacancies to be filled up by a written examination and viva-voce from amongst group C&D staff of Operating department with minimum 5 years regular service and with Matriculation qualification. It is submitted by the respondents that in accordance with the selection procedure applications were called for from willing and eligible staff to fill up 48 vacancies of Switchman by a circular dated 10.10.91. In response to the above advertisement, 465 employees of group 'C' and 'D' who were eligible, had submitted their willingness, including applicant. 24 of the above vacancies are to be filled up by

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staff having 6th standard qualification from the category of Leverman, cabinman and pointsman. Accordingly 69 seniormost eligible employees who fulfil the conditions as per instructions in PS No. 8892 (supra) were eligible. However, 72 seniormost employees (three times the number of vacancies) whose qualification is Matriculate were called to appear in the written test held on 7.3.1992. The applicant could not be included in the aforesaid list of 72 eligible candidates as he was junior to another pointsman who had applied for selection for the post of Switchman. He also submitted that the services of the applicant cannot be regularised as Switchman unless he qualifies in the aforesaid selection for the post of Switchman for which he was not found eligible as per his seniority position.

3. We have heard the learned counsel for the parties and also perused the record.

4. Learned counsel for the applicant submits that information is that the applicant was not permitted to sit for the post. However from the rejoinder filed by the applicant it is seen that the respondents had allowed the applicant to sit in the written examination but he was not invited for the viva-voce test. Learned counsel for the respondents submits that as per interim orders of the Tribunal, the result of the candidate was not to be announced till the disposal of the OA. He however submits that the applicant even otherwise was not eligible to be considered for the aforesaid selection because of his not being one of the 72 candidates considered eligible for taking aforesaid

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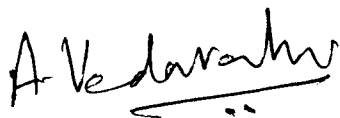
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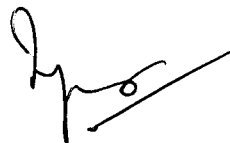
examination and therefore applicant had no right for being considered for this post even though he had qualified the written test.

5. We find that the applicant has not shown as to how he fulfills the eligibility condition both in terms of the qualification as well as in terms of the seniority. Learned counsel for the applicant, however, submits that the respondents have admitted that the applicant fulfills the requisite educational qualification for the said post but he does not dispute the averments regarding his seniority in regard to the aforesaid selection. That being the position there is nothing on record to support his claim.

6. In the light of the above, we do not find any ground to consider that the applicant is eligible at the time of the application, for the aforesaid selection. In view of the facts and circumstances of this case we do not find any merit. The application is dismissed. Interim order already passed stands vacated. No costs.



(Dr. A. Vedavalli)
Member(J)



(K. Muthukumar)
Member(A)