

Central Administrative Tribunal
Principal Bench

O.A.No.2138/93

Hon'ble Shri Justice V.Rajagopala Reddy, VC(J)
Hon'ble Shri R.K.Ahooja, Member(A)

New Delhi, this the 19th day of July, 1999

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Umesh Chandra Saxena
s/o Shri Laxmi Narain Saxena
aged about 36 years
working as Electrical Khallasi in
Electric Loco Shed
Northern Railway
Ghaziabad & r/o Qr. No.21-A
Bhoor Nagar
Ghaziabad (UP). ... Applicant

(By Shri Anis Suhrabardy, Advocate)

Vs.

1. Union of India through
General Manager
Northern Railway
Baroda House
New Delhi.
2. Divisional Railway Manager
Northern Railway
Allahabad, UP.
3. Senior Divisional Electric Engineer (R.Stock)
Northern Railway
Kanpur.
4. Senior Divisional Electrical Engineer(R.Stock)
Northern Railway
Ghaziabad. (UP). ... Respondents

(By Shri P.S.Mahendru, Advocate)

O R D E R (Oral)

Hon'ble Shri R.K.Ahooja, Member(A)

The applicant joined as a regular Gangman under
PWI, Northern Railway, Aligarh on 31.7.1983. He states
that as he possessed the ITI Diploma in Electrical trade,
he requested Respondent No.2 for transfer of his services
to the Electrical Department in the same capacity. On
his request being accepted, he was relieved from the post
of Gangman w.e.f. 11.6.1985 and was posted as Electrical
Khalasi at Ghaziabad on 25.6.1985. His grievance is that
the respondents have not assigned him a proper seniority

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in the cadre of Electrical Khalasi of Allahabad Division and have also denied him permission to appear in the Test for promotion to the post of Helper Khalasi.

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2. The respondents in their reply have stated that the applicant at his own request was transferred from Gangman to Electrical side as a substitute Khalasi vide order dated 11.6.1986. They submit that this assignment as substitute Khalasi was on a purely temporary basis and was subject to the applicant clearing the screening test. They further state that the applicant never appeared in the screening test. However at his request he was placed at the bottom of the panel of the ITI trade Electrical Khalasis. They therefore state that the applicant is not entitled to appear in the Trade Test for promotion to the post of Helper Khalasi.

3. The Tribunal by its order dated 8.10.1993 gave an interim direction to the respondents to allow the applicant to appear in the Trade Test held on 10.10.1993 with a further direction that the result thereof shall not be declared unless ordered by the Tribunal. The applicant has also filed an MA No.394/94 seeking interim relief that the result of the Trade Test of Helper Khalasi held on 19.2.1992 may be ordered to be declared and he be promoted in the higher grade with retrospective effect. However the Tribunal vide its order dated 8.2.1994 rejected the MA.

4. The learned counsel for the applicant submits that the respondents have postponed or cancelled the Trade Test of 1993. According to his information and as far as he is aware, the test has not been held.

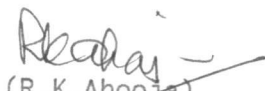
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5. We have heard the counsel for both the parties. We find from the pleadings that the condition for appearing in the test for the post of Helper Khallasi, in the Electrical Department as a Khalasi, is three years service. Hence even if the applicant had been placed at the bottom of the panel for ITI trade Helper Khallasi it would appear that he had completed three years qualifying service for eligibility for appearing in the Trade Test. In view of this position without going into the question as to whether the applicant was entitled to be granted seniority from the date he was regularly appointed as Gangman, we consider that the applicant could claim to appear in the Trade Test.

6. Accordingly, we dispose of this OA with a direction that the respondents to consider his case for taking the Trade Test for promotion as Helper Khallasi irrespective of his seniority on the basis of the earlier service as Electrical Khallasi after his diversion from the post of regular Gangman. In case such a Trade Test has been held and the applicant has undertaken the Test, the respondents may now declare the result and if successful promote him and fix his seniority as per the rules on the subject. In the alternative, he will be allowed to take the test for promotion to the post of Helper Khallasi as and when it is next held.

7. The OA is disposed of as above. No order as to costs.


(R. K. Ahooja)
Member (A)


(V. Rajagopala Reddy)
Vice-Chairman (J)

/rao/