

OA 884/93

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Judgement pronounced today i.e
on 26/4/93 in the court

BD
P.M. - 1st
case-II
26/4/93

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

(2)

OA 884/93

Date of Decision: 26.4.93

Shri Nathu Ram

Applicant

versus

Union of India

Respondents

Shri M.L. Sharma

Counsel for the applicant

JUDGEMENT(Oral)

(delivered by Hon. Vice Chairman(A) Shri N.V. Krishnan)

The applicant is aggrieved by the impugned order dated 14.12.92 (Annexure A-1), which mentions that he was trade tested for the post in the grade of Rs. 1400-2300, but he failed. The Annexure A-1 also states that, in this connection, a written test was held on 5.11.92, followed by an interview on 26.11.92.

2. The learned counsel for the applicant submits that, according to the Annexure A-2, Railway Board's letter dated 13.8.59, the suitability of a candidate for promotion should be judged on the date of vacancy in the higher grade or as close to it as possible. The learned counsel for the applicant also submits that the only vacancy for ^{which} a selection could have been made was the vacancy arising on 30.4.93 due to retirement of Mr. Om Prakash. He draws our attention to the Annexure A-3 circular dated 2.2.83, which reads that a number of candidates to be called for suitability test to fill up non selection posts should be equal to the actual vacancies existing and

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those anticipated in the next 4 months due to retirement. It is therefore, that the test to be conducted only in the period of 4 months preceding the last vacancy. In the present case, the trade test started on 5.11.92 for the vacancy which arose on 30.4.93 i.e. about 6 months prior to the vacancy. We do not wish to give any findings on merit, whether, if an examination is held about six months prior to the ~~is an irregularity~~ vacancy, it would be only ~~a regularity~~ or it would be totally void.

3. If these be the rules, when the applicant was asked to appear in the written test or later for the interview, it was his duty to have checked up in respect of which vacancy the trade test was being conducted and if he felt that the trade test was being conducted very much in advance and in violation of Annexure-A3 circular, he should not have written the examination or while participating, he should have registered his protest. Not having done so, and having appeared in both the examination and having failed in the trade test, it is not open to the applicant to come up with this application challenging the trade test.

4. In these view of the matter, we find there is no merit in the application and we dismiss it accordingly.

kam260493

MSB
(C.J. ROY)
MEMBER(J)
26.04.1993

Narve
26/4/93

(N.V. KRISHNAN)
VICE CHAIRMAN(A)
26.04.1993