

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH  
ALLAHABAD.

Dated : This the 03rd day of February 2003.

Original Application no. 849 of 1996.

Hon'ble Mr. Justice R.R.K. Trivedi, Vice-Chairman  
Hon'ble Maj Gen K.K. Srivastava, Member (A)

Hari Nath Singh,  
S/o Sri Samrej Singh,  
R/o Hanumanpur, Mughal Sarai,  
C/o Bhola Yadav,  
VARANASI.

... Applicant

By Adv : Sri O.P. Gupta

Versus

1. Senior Divisional Personnel Officer,  
Eastern Railway,  
MUGHALSARAI.
2. The Chief Personnel Officer, Eastern Railway,  
CALCUTTA.
3. Union of India through Secretary,  
Ministry of Railways, Govt. of India,  
NEW DELHI.

... Respondents

By Adv : Sri Amit Sthalekar.

ORDER

Hon'ble Mr. Justice R.R.K. Trivedi, V.C.

By this OA, filed under section 19 of the A.T. Act, 1985, the applicant has prayed for a direction to the respondents to post him as Chargeman (Electrical) Grade B in the pay scale of Rs. 425-700 w.e.f. 2.1.1985 at par with the juniors shown in the seniority list dated 25.11.1985. It is further prayed that the respondents be directed to grant him next promotion on the basis of the test held on 4.11.1984 with all consequential benefits.



...2/-

2. The facts of the case are that the applicant was appointed as apprentice Machanic (Electrical)-B through Railway Service Commission in the pay scale of Rs. 425-700 on 18.12.1982 and was sent for training of two years by order dated 6.1.1983. After completion of training, the applicant had to qualify the suitability test for appointment as Chargeman (Electrical). The applicant was called to appear in the test on 8.4.1984 and 9.4.1984, but he could not qualify the same. The applicant was again called to appear in the suitability test held on 4.11.1984 alongwith several candidates. The result of this test was declared on 2.1.1985. The applicant's name was not in the panel of successful candidates. It was a clear indication that the applicant could not pass the suitability test, hence his name was not included in the panel of 2.1.1985. 12 other candidates who passed the suitability test were given posting.

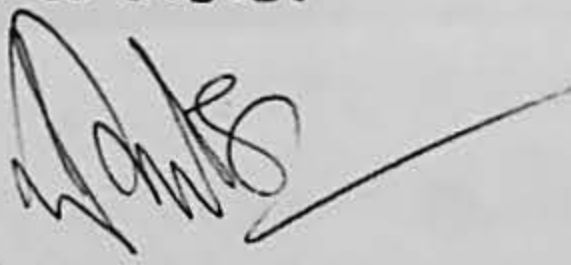
3. For the test held on 4.11.1984 and the result declared on 2.1.1985, the relief has been claimed by the applicant by filing this OA on 5.8.1996. There is long and inordinate delay. The applicant has submitted that as the applicant was terminated from service on 24.1.1985 and reinstated in 1993 under judgment dated 19.1.1993 of this Tribunal passed in TA no. 1970 of 1987, hence the applicant could not approached this Tribunal earlier. Even if the limitation is calculated from 1993 there is delay of more than 3 years.

4. Resisting the claim of the applicant, the respondents have filed counter affidavit, wherein it has been stated that the result of the test held on 4.11.1984 was published on 2.1.1985, but the name of the applicant was not included as he was not found suitable. We do not find any cogent evidence on record on which basis it may be held that the applicant had passed

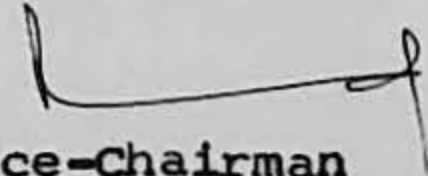


the suitability test held on 14.11.1984. In the circumstances, the applicant is not entitled for the relief claimed. It is not disputed that after reinstatement, the applicant was asked to appear in the suitability test, but he refused <sup>to appear</sup> ~~the same~~ on the ground that he had already appeared in the test held on 4.11.1984. In the circumstances mentioned above, the respondents cannot be blamed for not appointing the applicant as Chargeman (Electrical) and the applicant is not found entitled for any relief. However, this order shall not come in the way of the applicant, if respondents <sup>give</sup> him opportunity to appear in the suitability test for which the applicant may make representation before the competent authority.

5. Subject to aforesaid observations this OA is disposed of with no order as to costs.



Member (A)



Vice-Chairman

/pc/