

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH : ALLAHABAD

Allahabad, this the 26th day of September, 2003

QUORUM : HON. MR. JUSTICE R.R.K. TRIVEDI, V.C.  
HON. MR. D. R. TIWARI, A.M.

O.A. No. 604 of 1998

Bijendra Singh S/O Sri Shanker Lal, Head Trains Clerk, Central  
Railway, Mathura Jn.....

..... Applicant.

Counsel for applicant : Sri V.K. Srivastava.

Versus

1. Union of India through the Secretary, Ministry of Railways,  
Rail Bhawan, New Delhi.

2. The General Manager, Central Railway, C.S.T., Bombay.

3. The Divisional Railway Manager, Central Railway, Jhansi.

.....

..... Respondents.

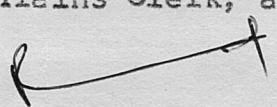
Counsel for respondents : Sri P. Mathur.

ORDER

BY HON. MR. JUSTICE R.R.K. TRIVEDI, V.C.

By this O.A., filed under section 19 of A.T. Act, 1985, applicant has prayed for a direction to the respondents to revert the applicant from the post of Head Trains Clerk to the post of Trains Clerk/Sr. Trains Clerk and consider him for promotion as Guard, as per his option and to post him as Guard from the date his junior has been promoted with all consequential benefits.


2. The facts of the case are that the applicant was appointed as Trains Clerk in the Grade of Rs.260-400 in Jhansi Division. He exercised his option for promotion in the cadre of Guard. Copy of the option of applicant has been filed as Annexure A-2. The applicant was, however, promoted to the post of Head Trains Clerk and has not been considered for promotion to the post of Guard. Applicant refused to avail the promotion as Head Trains Clerk, as he had given option





for Guard cadre. Applicant submitted a representation (Annexure A-6) requesting for training for the post of Guard. In the meantime, respondents called applications to fill up graduate quota of Guard. The applicant submitted his application in the prescribed form and was called for appearing in the written test to be held on 4.3.1991. Total 69 candidates including applicant were found eligible for the written test. The name of applicant appeared at Sl.No.12 of the list. Applicant was, however, informed by Respondent No.3 that as he has already been promoted as Head Trains Clerk, he is not allowed to appear in the selection. His case was also placed before Permanent Negotiating Machinery by the National Railway Mazdoor Union in 1997.

3. Resisting the claim of the applicant, counter reply has been filed by the respondents. In para 8 of the counter reply it has been stated that at the relevant time, applicant was working as Trains Clerk and had accepted the promotion of Head Train Clerk and had also availed the benefit of restructuring of the cadre with all benefits admissible under the rules. The applicant had appeared in the written test for the post of Chief Train Clerk held on 15.11.1997 and after due selection, he was placed on the panel approved by the competent authority on 25.1.99. It is further stated that the option will not be of any help to the applicant as he had already accepted promotion in the respective category. Counsel for the respondents submitted that a notification was issued on 14.11.97 inviting applications against Graduate quota for holding selection for the post of Goods Guard in the grade of Rs.1200-2040. Applicant had submitted option for Guard on 29.1.95 though the same was not called from applicant. However, the request of the applicant was considered and he was informed that only the employees against LDCE quota were considered for Guard and not from INC quota hence he was not considered for the same.

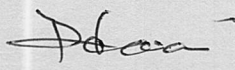





4. Learned counsel for respondents also submitted that the O.A. is time barred and the applicant is not entitled for relief. The applicant has challenged the order dated 1.2.1995. The O.A. has been filed on 25.5.98. There is delay of more than three years. However, the applicant was continuously pursuing his case through the Union before the Permanent Negotiating Machinery which considered the case of applicant on 5.3.1997 and 6.3.1997. If the limitation is calculated from the above dates, the delay in filing O.A. is of short period and the same is condoned in the interest of justice.

5. In view of the undisputed fact that the applicant had exercised option, he ought to have been considered for promotion as Guard. When the option of the applicant was not given effect, he filed representation. In the above circumstances, respondents were under obligation to consider and decide the representation. The applicant is entitled for relief to this effect.

6. The O.A. is, thus, disposed of finally with direction to the respondents to consider and decide the representation of the applicant dated 14.5.1990 by a reasoned order within a period of three months from the date a copy of this order is filed. *To avoid delay Copy of representation may be filed by applicant along with copy of this order.*  
No order as to costs.

  
A.M.

  
V.C.

Asthana/