

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH  
ALLAHABAD.

Dated : This the 20th day of August 2002.

Original Application no. 1457 of 2001.

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

R P Dwivedi, Health Inspector (Colony),  
Northern Railway Allahabad,  
working under, Chief Medical Supdt.,  
Northern Railway, Allahabad.

... Applicant

By Adv : Sri K S Saxena

Versus

1. The Union of India through the General Manager,  
Northern Railway, Baroda House,  
New Delhi.
2. The General Manager (Personnel),  
Northern Railway, Baroda House,  
New Delhi.
3. The Divisional Rly., Manager,  
Northern Rly. Allahabad.
4. The Chief Medical Supdt.,  
N Rly., Divisional Hospital,  
Allahabad.

... Respondents

By Adv : Sri A.C Mishra

ORDER

Hon'ble Mr. Justice RRK Trivedi, VC.

By this OA, filed under section 19 of the AT Act, 1985, the applicant has prayed for a direction to respondents to promote him as Health Inspector on the basis of selection held in the year 1984-85 and further to give him proforma fixation of pay and seniority from the previous date.

2. In short the contention of the applicant is that he ought to have been selected as Health Inspector in 1984

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on the basis of the selection held in pursuance of the letter dated 19.10.1984 (Ann A2). For this purpose the applicant had filed OA 235/92 before this Tribunal which was disposed of finally by order dated 22.3.2000. The direction given by this Tribunal is as under :-

"Under the circumstances, we direct the respondents to consider the claim of the applicant for being appointed as Health Inspector on the basis of letter dated 19.10.1984, in case the essential qualification of 3 years did not exist in the recruitment rules. Respondents shall pass an order seeing the recruitment rules within 3 months from the date of communication of this order."

This Tribunal also recorded finding after perusal of original record that the applicant had been regularised as Malaria Khalasi on 22.4.1982. In pursuance of the aforesaid direction order has been passed by competent authority on 17.1.2001 and rejected the claim of the applicant. Finding has been recorded that the rules required minimum of three years service in class IV and as the applicant was regularised on 2.4.1982, he had completed only 2 years 7 months and 28 days service on 30.11.1984 and as the applicant was not eligible for promotion in the selection held in 1984.

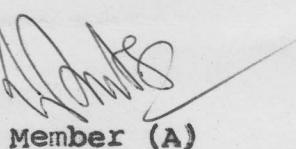
3. Sri K S Saxena, learned counsel for the applicant has submitted that in the impugned order dated 17.1.2001 wrong rule has been quoted of 1989 which could not be applicable to the selection held in 1984. In para 4.9 of the OA the applicant has quoted rule allegedly applicable for promotion as Sanitary Inspector. It is true that the rule quoted in above paragraph and relied by Sri K S Saxena does not provide *Three years service as a condition precedent for becoming eligible for promotion as Sanitary Inspector.*

4. Learned counsel for the respondents on the other

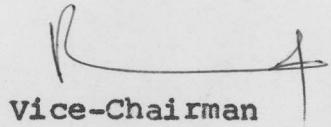
3.

hand submitted that correct rule applicable is contained in circular no. 831-E 253/2-II (Eiv) dated 9.9.1969. It provides that in view of Railway Board's letter all Class IV staff having 3 years service whether Matriculate or otherwise are ~~not~~ eligible to appear in selection for promotion from Class IV to Class III posts. Sri Saxena submitted that Rule quoted by learned counsel for the respondents is General Rule and it can be applied for promotion to the post of Sanitary Inspector quoted in Para 4.9. However, we are not satisfied with the submission made by Sri Saxena. The Circular dated 9.9.1969 contained the General Rule applicable for promotion from Class IV to Class III post. The rule quoted in para 4.9, however, is relevant as academic qualification for promotion to the post of Sanitary Inspector is different. For the purpose of qualification this rule has a special significance. The General Rule contained in Circular dated 9.9.1969 that Class IV employee having 3 years service whether Matriculate or otherwise shall be eligible for selection for promotion will not be applicable in case of Sanitary Inspector unless <sup>the academic</sup> qualification required therein is possessed. Thus the rule relied on by Sri KS Saxena is relevant for the purpose of qualification and for rest of the matter General Rule shall apply that Class IV employee must have rendered three years continuous service for becoming eligible for promotion to Class III post. There shall be no order as to costs.

5. In the circumstances, we do not find any error in the order. The claim of the applicant for promotion from back date cannot be accepted. The OA has no merit and is accordingly dismissed. There shall be no order as to costs.



Member (A)



Vice-Chairman

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