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CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD.

Registration (OA) no 364 of 1936.

Tej Shanker Tripathi

applicant.

Versus

Union of India ,through G.M., and
others.

Respondents.

Hon'ble D S Misra,A.M.
Hon'ble G S Sharma,J.M.

(Delivered by Hon'ble D S Misra)

This is an application under Section 19 of the A.T Act XIII of 1985 against the order dated 11/14th July,1986 passed by the Divisional Railway Manager,N.Railway Lucknow declaring the result of the selection held for the post of Ticket Collector which did not include the name of the applicant. The applicant apprehends that he may be reverted. He has prayed for issue of a direction quashing the selection of the post of ticket collector declared on 11/14th July,1986 and to pass suitable orders to the respondents to hold the applicant as a confirmed ticket collector not liable to be reverted.

2. The applicant has claimed that he joined the Khalase service under the respondents on 23.1.1971 as Signals and be after a change of category, he became porter in the same grade in the year 1979. On account of his good work and conduct , he was promoted to officiate on the post of ticket collector in the grade of Rs 260-400 w.e.f. 17.5.84 on ad hoc basis. On 20.1.1986, the applicant was called for the written test for the selection on the said post of ticket collector and by the result declared on 11/14th July, 1986, he has been declared not successful. The applicant's contention is that as he has been continuously working on the post of ticket collector for a period of more than 18 and months he is not liable to be reverted.

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3. In the reply filed on behalf of the respondents, it is stated that the applicant was made to officiate locally and on ad hoc basis as ticket collector Grade Rs 260-400 in place of one Sri Mahabir, Ticket Collector, Unnao, who was transferred to Lucknow from Unnao on his own request (copy annexure 2 to the claim petition). The post of Ticket Collector is the selection post and only those who qualify in the selection and are ~~un~~pannelled can be posted as ticket collector; that as the applicant has failed to qualify, he can not claim to be retained on the post of ticket collector as a matter of right.

4. Written arguments were filed by the applicant and the counsel for the respondents. We have considered the matter and perused the documents on record.

5. The main point for consideration in this case is whether the applicant had acquired any right to be confirmed on the post of ticket collector by virtue of the fact that he has worked on this post on ad hoc basis for a period of more than 18 months. None of the circulars of the Railway Board filed by the applicant and mentioned in written arguments, support the case of the applicant as the applicant was working on purely ad hoc basis in local arrangement. In the selection held for the post of ticket collector the applicant also took the test voluntarily and assertion to the effect that he appeared in the said selection under protest has been denied by the respondents. We are of the opinion that after appearing in the test and not qualifying for the same, the contention of the applicant that the selection was illegal, does not merit any consideration.

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6. The other claim of the applicant based on the fact that he had been working on the post for more than 18 months has been contested by the respondents who have relied upon the following case law.

I Umesh Narain Singh Vs. Union of India, 1985, U.P. Local Bodies Educational Cases, page 185, in which it has been held that for the post of ticket collector, selection post, the petitioner having failed to qualify for the selection can not claim any right to continue on the said post merely on the basis of continuous service. (2) In **Registration no. 504 of 1986(T) R Jackson Vs. Union of India** decided by this tribunal on 21.11.1986 the same view has been taken and it has been clearly stated that the Railway Board's Circular regarding officiation for a period of more than 18 months does not apply to those officiating on promotion as a stop gap arrangement. The third case cited by the respondents in support of their contention is **A.I.R. 1986, S.C., 1043**. The relevant portion of this judgment is contained in para 23 which reads as follows:

"Moreover, this is a case where the petitioner in writ petition should not have been granted any relief. He had appeared for the examination without protest. He filed the petition only after he had perhaps realised that he would not succeed in the examination!"

It is also contended by the respondents that none of the case law cited by the applicant in his written argument is applicable to his case.

7. We have examined the case law cited by the applicant. In **Registration No. 646/86(T) (J.B.L Srivastava & Others Vs Union of India)** decided by this tribunal on 24.3.87, it was held by this tribunal that the plaintiffs who were

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working as skilled artisan were appointed as Chargeman Grade B after holding a screening test and they had been working on that post satisfactorily for more than 6 years. In these cases the tribunal had directed the defendants to reconsider the cases of the plaintiffs who have been working for more than 3 years for regularization without subjecting them to written examination. We are of the opinion that this case does not help the applicant. In the second case relied upon by the applicant (D.B.Jena Vs. Union of India (S.L.J. 1983(2) 28), the applicant had qualified in the written test for promotion to the higher post but was found ^{un}suitable in the viva voce. It was held by the Hon'ble Judges of the Orissa High Court that by virtue of having been ~~working~~ ^{been} satisfactorily for more than 6 years, the applicant should be deemed to have qualified in the viva voce test. This case law also does not support the case of the applicant. The third case law relied upon by the applicant is

Narendra Chadha and others Vs Union of India and others (A.I.R. 1986, S.C. page 638). Even in this case in para 14 of the judgment the Hon'ble Supreme Court has observed as follows:

"But we, however, make it clear that it is not our view that whenever a person is appointed in a post without following the rules prescribed for appointment to that post, he should be treated as a person regularly appointed to that post. Such a person may be reverted from that post!"

8. We have examined the contentions of the parties and we are of the opinion that the applicant had no claim either for permanent appointment as ticket collector or for continuous officiation and there is no illegality in the order dated July 11/14, 1936.

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For the reasons mentioned above, the application
is rejected without any order as to costs.

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