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CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH.

O.A. No. 384 of 1987.

Suresh Kumar Singh Applicant.

Versus

Divisional Railway Manager, Jhansi. Respondent.

Hon'ble Mr. Justice U.C. Srivastava, V.C.

Hon'ble Mr. A.B. Gorthi, A.M.

(By Hon'ble Mr. Justice U.C. Srivastava, V.C.)

The applicant was posted as Silled Welder in Diesel Loco Shed Jhansi. As per allegations, he was qualified for highly skilled Grade II i.e. Grade II Welder in the scale of 330-480. In the examination which was held on 23/24.9.86, he was declared qualified but was not promoted. Whereas R.K. Soni, who also appeared in the trade test, was declared failed but was promoted. Although the applicant made several representations but he failed to get any relief from the department that is why he approached this Tribunal. According to the applicant, there was only one vacancy and he succeeded in the examination and as such he alone could have been appointed and no other person should be appointed.

2. The respondents have tried to defeat the claim of the applicant by stating that there was only one vacancy of highly skilled welder Grade II and the said R.K. Soni alone who is seniormost Welder Grade III was trade tested on 24.5.86 and after he was found to be unsuitable, the applicant, who is next senior to R.K. Soni, was called for trade test of Highly Skilled Welder Grade II on

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23/24.9.86. The trade test consisted of two parts; one the practical aspect and the other theoretical aspect. The test job on the practical part of the test was sent to Senior Chemist and Metrologist on 7.10.86 for various tests analysis. The result of the trade test could be declared only after the test analysis by Senior Chemist and Metrologist and before receipt of the result of analysis the result was not complete. As the result of the trade test of the applicant was not complete, there was no question of appointing the applicant as Highly Skilled Welder Grade II. The report of the practical test job of applicant from Senior Chemist & Metrologist Parel was received on 15.12.86 and by this time, the senior most Skilled Welder Grade III Shri R.K.Soni again became eligible for the trade test on expiry of six months from the date of his being declared failed as per rule for trade test for second attempt, that is why he was appointed and as there was no ^{other} vacancy, the question of promotion of the applicant does not arise. Again one vacancy, the result of the applicant was still awaited. So long the result was not declared, there was no vacancy against R.K.Soni could have been promoted. The brief facts show that it was done in haste and hurry. The applicant's result was delayed deliberately or otherwise and only in haste and hurry. The Railway Administration was interested in promoting said R.K.Soni and without waiting for result of applicant, they promoted R.K.Soni, although there was no vacancy existed.

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The result was still awaiting. So long the result was not declared, there was no vacancy and in the absence of any vacancy, the said R.K. Soni could not have been promoted in the manner in which it has been done. This was the deliberate act on the part of the railway officers and for some or other reason they took such a step. It is the matter which should be ^{investigated} by the higher authorities of the railway department. As the applicant has passed the examination, obviously, he is entitled to be promoted as Skilled Welder Grade II with effect from the date R.K. Soni has been promoted. Accordingly, the respondent is directed to promote the applicant with effect from the date said R.K. Soni has been promoted. As the upper hand is of Railway Administration, the promotion of the applicant will be notional and actual from today. The copy of the said order may be sent to the Railway Board for taking such action as it deems fit. With these observations, the application is disposed of without any order as to costs.

Member (A)
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LL
VICE CHAIRMAN.

DATED : MAY 7, 1992

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