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CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD.

Original Application No. 671 of 1987

Allahabad this the 23rd day of Jan. 1996

Hon'ble Dr. R.K. Saxena, Member (J)
Hon'ble Mr. D.S. Baweja, Member (A)

1. Har Das S/o Dhani Ram
2. 1 Smt. Puniya Bai W/o Late Bal Kishan
2. 2. Suresh S/o Late Bal Kishan
2. 3. Ram Prasad S/o Late Bal Kishan

At this time the applicants are working as
Grade II Fitter in Train and Lighting Department,
Central Railway, Jhansi.

APPLICANTS

By Advocate Shri H.P. Chakravarty.

Versus

1. Union of India through General Manager,
Central Railway, Bombay V.T.
2. D.R.M., Central Railway, Jhansi
3. Railway Board through its Chairman, Rail Bhawan
New Delhi.

RESPONDENTS.

By Advocate Shri V.K. Goel.

ORDER

By Hon'ble Dr. R.K. Saxena, Member (J)

This application has been moved under
section 19 of the Administrative Tribunals Act, 1985
seeking the relief of promotion on the post of

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Fitter Grade III and Grade II with effect from 12/5/1986 and also to get the arrears of pay.

The circular dated 12.9.1985 whereby the letter dated 10.7.1985 (annexure-5) is amended, is also required to be quashed.

2. The brief facts of the case are that the applicants were working as Fitter Grade II on ad-hoc basis in the pay scale of Rs.330-480/- in the Train Lighting department. The post of Fitter Grade II was not a selection post but, is a promotion post based on seniority-cum-suitability. For the regular post of Fitter Grade II, test was held on 19.2.1986 and 20.2.1986 and the result was declared on 12.5.1986 vide letter dated 27/28.4.1986. The applicants were not promoted although juniors to them were promoted. The applicants then gave joint representation on 14.5.1986 to Senior Divisional Executive Engineer, Central Railway, but no reply was given. Consequently, a notice under Section 80 C.P.C. was given by their lawyer on 25.9.1986 to the respondents but, the respondents again failed to give any reply. The respondents, however, promoted the applicants vide order dated 12.1.1987 but the seniority with effect from the result of the date i.e. 28.4.1986 was not given. The applicants again gave joint representation for the seniority being given from the date of test but, no reply was given.

3. The contention of the applicants is also to the effect that they ought not to have been

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subjected to the trade test in view of the Policy of the upgradation vide circular dated 10.7.1985. Since, the applicants were subjected to the trade test and they were not given the benefits of the seniority and the backwages, this O.A. with the reliefs mentioned earlier, has been filed.

4. The respondents filed the reply in which it is contended that an employee who is seeking promotion to the Artisen Category in Grade II and I, it is incumbent to qualify the prescribed trade test. The post of Artisen Fitter Grade II and I are highly skilled grade post and they are given only on qualifying the test. There is no relaxation to this rule. It is averred that the applicants were required to undergo the trade test for the post of Fitter Grade II and they had appeared in the test held on 24.2.1986 but, were declared unsuccessful. Those who had qualified the test for the post of Fitter Grade II, they were promoted vide letter dated 19.5.1986. It is further averred that the applicants had qualified the test in second or third attempt and those who were promoted in Fitter Grade II vide order dated 24.3.1987. The O.A. is also said to be time barred.

5. We have heard the learned counsel for the applicant and the respondents and have perused the record.

6. The main question in this case is

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whether the applicants who were promoted as Fitter Grade II on 24.3.1987 were entitled to the seniority with effect from the date of the result of the first trade test, the result of which was declared on 28/29.4.1986. The applicants contended that they had appeared in the first trade test but, they were not promoted. They kept silence as to what was the result of their trade test. The respondents, however, made clear that the applicants though appeared in the test but, failed. It has been specifically contended that the applicants could qualify the trade test in second or third attempt and, therefore, they were promoted vide order dated 24.3.1987. This fact could not be rebutted. The applicants, however, came with the plea that they were not required to undergo the trade test because of the policy of upgradation as was enunciated in the circular letter dated 10.7.1985. In case the applicants felt that they were not required to undergo the trade test and they were compelled to appear in the test, they ought to have challenged the said act of respondents at that stage. They had appeared in the test and when they failed, they cannot be allowed to agitate that the test was not at all obligatory for their promotion to ^{the post of} Fitter Grade II. The respondents relied on the circular letter dated 12.9.1985 annexure-1 to the counter-reply, in which the general policy matter of upgradation vide circular letter dated 10.7.1985 was clarified and it was made clear that the suitability test was obligatory. The applicants now contend that this letter dated 12.9.1985 be

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declared illegal. No such grounds have been taken or shown which may indicate the unconstitutionality or illegality of the letter dated 12.9.1985 ^{and} annexure-1 to counter-reply. We, therefore, not in agreement with the contention raised by the learned counsel for the applicants. The applicants were required to undergo the test in view of the said letter and when they had appeared and had failed in the test, they have no cheeks to say that it was not obligatory to have undergone the trade test. Since, the applicants qualified the trade test in second or third attempt and they were promoted regularly with effect from 24.3.1987, there was no point of their getting seniority from the date 28/29.4.1986 as is prayed by them.

7. On the consideration of the facts and circumstances, we find no merit in the case and the O.A. is dismissed accordingly. No order as to costs.

Member (A)

Member (J)

/M.M./