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Open Court

CENTRAL ADMINISTRATIVE TRIBUNAL ALIA HABAD BENCH

Allahabad this the 2nd December of 1994.

Original Application no. 16 of 1988.

Hon'ble Mr. Justice B.C. Saksena, Vice-Chairman
Hon'ble Mr. S. Das Gupta, Administrative Member

Amar Singh Gaur, S/O Shri Thakur Kalyan Singh, R/o
Qr. no. E-68/A Railway Colony, Mohalla Govindganj
Distt. Shahjahanpur.

..... Applicant

C/A Shri Ashok Kumar

Versus

1. Union of India, through the General Manager, N. Rly
New Delhi.
2. Divisional Railway Manager, Moradabad.
3. Divisional Personal Officer, N. Rly, Moradabad.

..... Respondents

C/R Shri A.K. Gaur

ORDER

Hon'ble Mr. Justice B.C. Saksena, V.C. (Oral)

Through this O.A. the applicant seeks the following
reliefs:-

- i. a direction to be issued to the respondents to confirm the applicant in the post of Section Controller from 1982, when he had completed two years of continuous service;
- ii. direction be issued to the respondents to consider him for the post of controller for which the selection was to be made on 15.12.87.

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The applicant in the O.A. alleged that he was called for qualifying test for the post of Section Controller. Having qualified the written test he was called for interview vide order dated 30.06.80 (Annexure - 2) he was given ad-hoc promotion.

2. In the C.A. filed by the respondents it has been shown that the applicant after having qualified the written test was called to appear in Viva-Voce test, but he did not qualify at the selection. The result of the test was declared. In the meantime, however, the applicant was put to work as section controller temporarily on adhoc basis pending selection of the officer order. This averment is borne out from annexure 2 to the O.A. In support of the claim for being treated as confirmed Section Controller reliance is placed on Railway Board letter dated 05.06.92, a copy of which is annexure 7. This letter shows that cases of staff who have been promoted on regular basis should be reviewed after completion of one year's continuous service, even if a permanent vacancy does not exist with a view to determine their suitability for retention in the grade after 18 months of officiating service. It was further observed that there should be no question of denying the benefit of confirmation to an employee on completion of two years officiating service in a clear permanent vavancy for the reason that he is not fit for confirmation.

3. The applicant has not filed any rejoinder.

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4. In our opinion the provision of the said letter is not attracted to the present case. The applicant had not qualified and even if he was put to work in a stop gap arrangement pending selection, the period of officiating service on the said post does not clothe him with any right for confirmation since he was not promoted on a regular basis. The sine-qua non of the provision of the railway board aforesaid letter is that the officiating appointment should be on regular basis. Hence, the contention is without force and no case for grant relief is made out.

5. The OA deserves to be dismissed and is accordingly dismissed. There shall be no order as to costs.

WR

(S. Das Gupta),
Member-A

B.S. Saksena

(B.S. Saksena)
Vice-Chairman

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