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Open Court

CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH
ALLAHABAD.

(10)

Allahabad this the 19th day of October 1995.

Original Application no. 999 of 1988.

Hon'ble Mr. T.L. Verma, Judicial Member
Hon'ble Mr. D.S. Baweja, Administrative Member.

A.N. Mazumdar, S/o Late Sri A.N. Mazumdar, ETL/ALD (Train Lighting Supervisor), Northern Railway, Allahabad.

... Applicant.

C/A Sri Satish Dwivedi

Versus

1. Union of India through the General Manager, N.Rly., Baroda House, New Delhi.
2. The Divisional Railway Manager, South Road, N. Rly., Allahabad.
3. The Senior Electrical Foreman Coaching Train Lighting N. Rly., Allahabad.

... Respondents.

C/R Sri P. Mathur.

O R D E R

Hon'ble Mr. T.L. Verma, Member-J.

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The applicant ^{who} was working as Train Lighting Supervisor, has filed this application under section 19 of the Administrative Tribunal Act, 1985, for issuing a direction to the respondents to regularise his Services ~~with~~ and treat him duly confirmed on that post ~~with~~ all the benefits attached to the post ~~with~~

with effect from the date of his appointment.

2. According to the applicant, he was called to appear at the trade test for the post of ETL. He appeared ~~at~~ the said trade test on 12.1.1981. The result of the said trade test was declared on 2.4.1981. The name of the applicant, however, was not included in the list of the candidates who appeared in the said trade test. He, therefore, approached the concerned authority in that connection. He was again called to reappear in the trade test. He, however, did not appear at that test because his result of the test held on 12.1.1981 had not been declared and his appeal made to higher authorities was pending. In the meantime the juniors to the applicant have been given regular promotion. The applicant claims that by virtue of his continuous service for more than six years on adhoc basis on the post of ETL he ^{should} ~~shall~~ be deemed to have been regularised in the terms of Railway Board letter dated 21.5.1956.

3. The respondents have resisted the claim of the applicant on the ground that, ^{though} he was called for to appear at the trade test on 12.09.1981, ~~but~~, he did not appear ~~at~~ the trade test. The post of ETL is selection post, appointment on the said post can be made only after incumbent clears the required trade test. Since the applicant has failed to qualify in the said trade test, he cannot be regularised.

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4. We have perused the pleadings on record and heard Sri Prashant Mathur learned counsel for the respondents.

5. The applicant, admittedly, was appointed on adhoc basis on the post of ETL. He had worked on the said post for about six years. The first question that falls for our consideration is whether the applicant has acquired a right to hold the post by virtue of his having worked on the said post for about six years on adhoc basis without clearing the required trade test. The circular of ^{the} Railway Board referred to in paragraph 13(a) of the application in support of this contention has not been filed. We are therefore, not in a position to hold that the applicant has acquired such a right by virtue of the said circular

6. The post of ETL, we were informed, is a Selection Post. The law regarding promotion to selection posts has been settled by the Apex Court in several decisions. The ratio of these decisions is that promotion to posts, for which clearing selection test is a condition precedent, can be made only in the manner prescribed. In other words the employee becomes eligible for promotion only after clearing the selection test. We have perused the annexure filed on behalf of the parties and we find that the applicant has failed to satisfactorily prove that he had either appeared at the required examination or that he has passed the same. That being so we have no manner of doubt that the applicant is not qualified ⁱⁿ the test prescribed for promotion to the post of ETL.

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7. It has been averred in the application that the applicant who has worked for more than 18 months on the post to which he has been promoted so he can not now be reverted. We find this contention, also, without substance. Bar against reversion after 18 months ^{applies} only if promotion was made after due selection. We have already noticed above that the promotion of the applicant was only on adhoc basis. Hence he has acquired no right to continue on the said post.

8. In view of the above, we find no merit in this application and dismiss the same leaving the parties to bear their own cost.

[Signature]
Member (A)

[Signature]
Member (J)

VKP/-