

Open Court

CENTRAL ADMINISTRATIVE TRIBUNAL

ALIAHABAD BENCH,

ALIAHABAD.

Allahabad this the day 28 May 1997.

CORAM : Hon'ble Mr. S. Das Gupta, Member-A  
Hon'ble Mr. T.L. Verma, Member-J

ORIGINAL APPLICATION NO. 1792 OF 1992.

Brahmeshwar Singh, S/o Shri Jagdish Narain,  
R/o Village Bhadwan, P.O. Sahao,  
District- Jalaun (U.P.).

..... Applicant  
(By Advocate Shri M.P. Gupta ).

Versus

1. The Union of India through the General Manager,  
Central Railways, Bombay VT.

2. The Divisional Manager,  
Central Railway,  
Jhansi.

..... Respondents.  
(By Advocate Shri Prashant Mathur.)

ORDER (ORAL)

By Hon'ble Mr. S. Das Gupta, Member(A)

1. This application has been filed Under Section 19 of the Administrative Tribunals Act, 1985. The applicant seeks a direction to the respondents to offer him appointment as Apprentice Wireless Telecommunication Maintainer (W.T.M) Grade-III w.e.f. from the date on which persons mentioned Annexure-2 to the O.A. were so offered with all consequential benefits like arrear of pay and allowances and seniority etc.

2. The applicant's case is that he was a candidate for one of the post of Apprentice (W.T.M) <sup>selection for</sup> Grade-III in the Central Railway, which was held on 5.9.1983. The applicant was found fit and was selected for one of the afore-mentioned ~~post~~ <sup>post</sup> and his name was included in the panel at serial no. 8. He was medically examined and was found fit. The letter of appointment was issued on 9.9.1983 and thereafter the applicant was not sent for training while other selected persons in the panel were so sent. Later the applicant was informed by an order dated 29.10.1983 that since he was not found fit for appointment as W.T.M Grade-III, he was not entitled for <sup>a</sup> ~~the~~ place in the panel.

3. The facts of the case are not disputed. The respondents have stated that the applicant does not possess the requisite qualification for the

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post in question. It appears that following qualification prescribed for the post :-

\* Educational : Matriculation, and (a) I.T.I Certificate in Electrical/Radio/Wireless/ Tele-communication /TV Trade and one year's experience as casual TCM/WM in the S&T Department ; or (c) a pass in plus two stage in High Secondary i.e, with Maths and Physics or equivalent. \*

4. There is no dispute that the qualification which the applicant possess is Diploma in Electronic Engineering. The case of the respondents is that this does not come within the purview of any of the alternative given in the recruitment qualification for the post of W.T.M Grade-III. The applicant's case is that the qualification he possesses is higher than the qualification prescribed for the aforesaid post. During the course of argument, the learned counsel for the applicant brought to our notice the qualification prescribed for the post of Tele-communication Inspector, which is a much higher post in higher grade. The qualification prescribed for the aforesaid post is Matriculation, I.T.I Certificate in Electrical / Radio / Wireless/ Tele-communication / TV Trade and Electrical Engineer or equivalent. It is, therefore, clear that the applicant possesses the qualification which was required for the post much higher in rank than the post of W.T.M Grade-III. Infact there is a

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communication from the Chief Personnel Officer which indicates that even the respondents acknowledged that the applicant possesses the qualification higher than the prescribed qualification as per Railway Board's letter for the post of W.T.M Grade-III.

5. *Matter of*  
It is a common knowledge that the qualification which was prescribed for the particular post is normally the minimum qualification. This does not mean that the person having higher qualification is debarred for the particular post. It appears to us that ~~is~~ such has been the case in the present application, we are, therefore, of the view that the action of the respondents in depriving the applicant's *of* appointment *as* Apprentice W.T.M Grade-III has been arbitrary.

6. We are at the same time aware of the facts that since the selection of the applicant and the appointment of the other empanelled candidate, long 14 years have elapsed. It is not, therefore, possible ~~for us to get the clock back to the previous position.~~ At this stage, all that can be done is to direct the respondents to appoint the applicant in future. We accordingly find that the applicant having qualified in the earlier selection shall be appointed as W.T.M Grade-III in the next available vacancy ~~as~~ after due medical examination if necessary. We also

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stipulate that the fact that the applicant may have crossed the upper age limit, shall not come in the way of his appointment. The applicant cannot, however, be given any retrospective benefit particularly of seniority since this will wholly unsettle the settled position of seniority. This application is disposed of accordingly. Parties shall bear their own costs.

*J. H. L. H. L.*

Member (J)

*W. L.*

Member (A)

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