

CENTRAL ADMINISTRATIVE TRIBUNAL AT ALLAHABAD

ALLAHABAD BENCH, ALLAHABAD

Dated: Allahabad, the 11th December, 2000

Coram: Hon'ble Mr. S. Dayal, A.M.

Hon'ble Mr. Rafiq Uddin, J.M.

Original Application No.869 of 1992

Virendra Kumar Khare,
s/o late Shri B.L. Khare,
r/o 216/B, Hirapura Nagra,
Jhansi.
(By Advocate Sri M.K. Upadhyaya). . . . Petitioner

Versus

1. Union of India, through General Manager,
Central Railway, Bombay.
2. Divisional Railway Manager,
Central Railway, Jhansi.
3. Senior Divisional Personnel Officer,
Central Railway, Jhansi.

. Respondents

(By Advocate Sri V.K. Goel)

O_R_D_E_R (Open Court)

(By Hon'ble Mr. S. Dayal, A.M.)

This application has been filed with a prayer to set aside the letter dated 11.6.1992 of the Respondent no.2 and to issue directions to the Respondents to permit the applicant to appear in the interview to be held in connection with the selection for the post of Chargeman/ Engine in the grade of Rs.1400- 23000/- and further direction has been sought for payment of balance salary and other emoluments, which the applicant would have received by obtaining the said permission earlier.

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2. The case of the applicant is that while working as highly skilled Fitter Grade-I in Diesel Shed at Jhansi, he appeared in the written qualifying test for promotion to the post of Junior Chargeman on 24th February, 1981 and passed the said written Exam. After the result of the written test was declared on 15th January, 1982, persons, who had passed the written examination, were asked to appear for the viva-vocie for recruitment to the post of Apprentice Mechanical drawn from skilled Artisans from the Electrical Wing and Diesel Shed. The viva vocie test was to be held on 28.1.82 and 29.1.82. The applicant had proceeded on deputation to Zimbabwe in September, 1981 and was unable to know that he has succeeded in the written examination. He says that he was not informed in Zimbabwe about the date of viva vocie. After his return from his deputation from Zimbabwe, the applicant claims that he has been meeting Respondents 2 & 3 and other superior officers from time to time. He filed a written representation on 26th November, 1991, seeking an opportunity to appear in the viva vocie test on the basis of his having qualified in the written test in January, 1982. It is claimed that the Respondent no.2 by a letter dated 11.6.92 has rejected the applicant's request for exemption for viva vocie going to be held on 16.6.92 and 30.6.92 for the post of Junior Chargeman. The applicant further claims that persons similarly situated were granted exemption from written test in accordance with the provisions of Paragraph 219 (M) of Indian Railway Establishment Manual Volume - I.

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3. We have heard the learned counsel for the applicant Sri M.K. Upadhyay and the learned counsel for the Respondents Sri V.K. Goel and considered the pleadings.

4. The basic issue in this case is whether the applicant is entitled to the benefit of Paragraph 219(m) of Indian Railway Establishment Manual Volume-I. The Paragraph 219 (m) reads as follows:-

■ **SELECTION OF PERSONS ON DEPUTATION ABROAD**- The panel should be finalised without waiting for the employees who are on deputation abroad. On return of the employee from abroad, if it is found that anyone junior to him has been promoted on the basis of a selection in which he was not called because of his being abroad, he may be considered in the next selection and if selected, his seniority may be adjusted vis-a-vis his juniors. In case such an employee is declared outstanding in the next selection, he should be interpolated in the previous panel in accordance with the seniority and gradation in the subsequent selection."

The stipulation of this paragraph is clearly that on return of the employee from abroad, if it is found that any junior has been promoted, in which he was not called, he may be considered in the next selection and if selected, his seniority may be adjusted vis-a-vis his juniors.

The applicant in this case admittedly returned in 1984. He had been representing against and is not getting opportunity on the basis of the result of the written examination held in 1981 till 1991. In the meanwhile, he appeared in the written examination held on 16.12.1989, vide notification dated 17.11.1989 and did not qualify in the written examination. Thereafter, he appeared in the written examination in 1992 and was declared successful, but did not succeed in the viva voce test held in pursuance of the written examination.

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5. In the light of the ~~light of the~~ facts and circumstances of the case, we do not find any merit in the belated claim for setting aside the letter dated 11.6.1992, in which the request of the applicant for exemption from the written test has been rejected. There shall be no order as to costs.

Danjiwoda
J.M.

A.M.
A.M.

Nath/