

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH

ALLAHABAD

Allahabd : Dated this 19th day of March, 2001

Original Application No.1540 of 1993

CORAM :-

Hon'ble Mr. Justice R.R.K. Trivedi, V.C.

Hon'ble Mr. S. Biswas, A.M.

Prakash Kumar S/o Late Sri Bansant Lal,
R/o B-1576, G.T.B. Nagar, Kareilly,
District Allahabad.

(Sri Suneel Rai, Advocate)

..... Applicant

Versus

1. Union of India through the General Manager,
Northern Railway, Baroda House, New Delhi.

2. The General Manager,
Northern Railway, Headquarters,
Baroda House, New Delhi.

3. The Chief Personnel Officer,
Northern Railway, Headquarters,
Baroda House, New Delhi.

(Sri AK Gaura, Advocate)

..... Respondents

O R D E R (O_r_a_1)

By Hon'ble Mr. Justice R.R.K. Trivedi, V.C.

This OA has been filed under Section 19 of the
Administrative Tribunals Act, 1985, for a direction to
the respondents to appoint the petitioner as a Clerk
or T.C. in the Northern Railway at the earliest. It has
also been prayed that the respondents may be directed to



appoint the applicant in any service of Category B-1.

2. The facts giving rise to this OA are that to clear backlog of the vacancies of the reserved category, applications were invited by advertising ~~for~~ the posts of T.C. and Office Clerks. The applicant also applied and appeared in the written test and viva voce. The panel was declared on 11-3-1988. The applicant topped the list. However, he was not given appointment on the ground that in the medical test he failed. He was declared medically ~~un~~ fit for appointment on any post of Category B-1 with glasses. The grievance of the applicant is that though the applicant topped the list, the appointment has not been given to him either as T.C. or the Office Clerk or in any other alternative category of B-1 as suggested by the review medical board. Sri AK Gaur, counsel for the respondents has submitted that the application is highly time barred and the applicant is not entitled for any relief. We have considered this aspect of the case. However, we do not feel that the case of the applicant ^{should} be thrown on the ground of limitation. In the counter affidavit itself it has been said that the applicant was conveyed the decision of the Railway Board on 26-2-1993. He filed the present OA on 5-10-1993. Therefore, the cause of action for the applicant arose only when he was communicated that he could not be given appointment. The OA was filed by the applicant within the time prescribed by Section 21 of the Act. The next question for consideration is that who failed to give alternative appointment to the applicant during the currency of the panel. Nothing has been said in the counter affidavit that the efforts were made to provide alternative employment to the applicant in Category



(W)

B-1 with glasses. The applicant was writing to the various authorities as stated in the application. If the panel which he had topped had a particular life, efforts should have been made to provide alternative job to the applicant within the currency of the panel. We do not find any such efforts made from the record. It is also not stated that alternative job was not available during the currency of the panel. In these circumstances, in our opinion, the case of the applicant requires a fresh consideration by the respondents. If the applicant proved his merit and topped the panel that must have been given due consideration, otherwise frustration ^{shall} prevail amongst meritorious candidates.

3. For the reason stated above, we dispose of the OA with the direction to the respondent no. 3, the Chief Personnel Officer, Northern Railway, Headquarters Baroda House, New Delhi, to consider the case of the applicant afresh for providing him the alternative job and for which he is medically found fit. This exercise shall be done within a period of four months from the date a copy of the order is filed before him. The OA is disposed of accordingly with no order as to costs.

S. Basu
Member (A)

R. J.
Vice Chairman

Dube/