

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH: ALLAHABAD

Date of order: 30.5.1994

Registration No.O.A.1555 of 1993

Ram Moorat Patel ... Applicant

versus

Union of India and others ... Respondents

with

Registration No.O.A.601 of 1993

A.N.Mishra ... Applicant

versus

Union of India and others ... Respondents

Counsel for the applicants ... Sri Saumitra Singh

Counsel for the respondents ... Sri D.C.Saxena

Coram: Hon'ble Mr. Justice R.K.Varma, V.C.(Patna Bench)

Hon'ble Miss Usha Sen, A.M.

ORDER

Hon'ble Mr. Justice R.K.Varma, Vice-Chairman(Patna Bench)

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This order shall also govern the disposal of the similar petition O.A.No.601/93. The petitioner in this petition as well as in O.A.601/93 has sought a direction to the respondents to restrict filling up the posts of electric fitters in Grade III pertaining to the promotional quota of 25% to the candidates who are I.T.I. diploma holders and not merely having the educational qualification of high school as per the requirement of advertisement dated 5.3.1993 (vide Annexures A-4 and A-5 to the O.A.601/93) issued by the Divisional Railway Manager, Northern Railway, Allahabad.

2. The petitioner has also sought further direction to the respondents for filling up the vacancies of 25%

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promotional quota as advertised, on the basis of qualifications as prescribed by the circular dated 18.6.1990 (Annexure A-1 to the petition).

3. Petitioners were appointed on Class IV Group 'D' posts as Electrical Khalasis in pursuance of advertisement dated 23.1.1983 and 12.5.1986, having I.T.I. diploma with high school as the minimum qualification, which qualification is similar to that of Class III Group 'C' employees. Prior to the petitioners' appointment i.e. before 1983, no minimum qualification was laid down for appointment to Class IV group 'D' posts and it was for the first time that the respondents by their advertisement dated 23.1.1983 laid down the minimum qualification of high school with I.T.I. diploma for class IV group 'D' posts i.e. the posts of Electrical Khalasis. Later, the Railway Board issued a circular whereby the aforesaid requirement of Class IV group 'D' employees was withdrawn. But again the minimum qualification for appointment of khalasis in Class IV group 'D' post in the Diesel and Electrical loco shed has been prescribed by the Railway Board Circular No.NBSN/4629 dated 23.6.1988 requiring the same educational qualification for the appointment of khalasis in group 'D' posts as is required for class III group 'C' posts.

4. The respondents issued a notification dated 18.6.1990 (Annexure A-1 to the petition) prescribing Class VIII pass or equivalent thereof with I.T.I. trained as the essential educational qualification for promotion by selection of Class IV employees to the post of Skilled artisan electric fitter in 'Vidhut Chal Stack Sangathan Department'. But the Railway administration issued an advertisement dated 3.7.1990 (Annexure A-2 to the petition) in accordance with the circular (Annexure A-1) inviting applications from the serving employees Class IV group 'D' but it appears selections were ultimately not made.

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The same vacancies were once again advertised by the respondents by means of advertisement dated 5.3.1993 but no selection could be held in pursuance thereof.

5. As per the said advertisement the minimum educational qualification required of a candidate was only high school pass (vide Annexure RA-4 to the Rejdinder).

The respondents then issued advertisement dated 29.6.93 (Annexure A-4) and fixed the written examination for selection by notice dated 25.9.93 (Annexure A-3) for the candidates who were either matriculation pass or I.T.I. trained

6. The grievance of the petitioner is that the requirement of minimum educational qualification for promotion to Class III group 'C' post of skilled artisans in the Electrical Department cannot be less than the minimum educational requirement for appointment of Electrical khalasis like the petitioners who were appointed to Class IV group 'D' posts on the basis of high school pass and I.T.I. trained qualification.

7. The respondents have placed reliance on para 159 (1) of Indian Railway Establishment Manual - Volume I (1989 Edition) in support of the advertisement requiring the minimum educational qualification as Matriculate. Para 159 (1) pertaining to "Skilled Artisans" reads as under:

"159. (1) The vacancies in the category of Skilled Artisans Grade III in scale Rs.950-1500 in various Engineering Departments will be filled as under :
(i) 25% by selection from course completed "Act Apprentices", ITI passed candidates and Matriculates from the open market; serving

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employees who are course completed Att
Apprentices or ITI qualified could be
considered against this quota allowing
age relaxation as applicable to serving
employees.

- (ii) 25% from serving semi-skilled and un-skilled
staff with educational qualification as
laid down in Apprentices Act; and
- (iii) 50% by promotion of staff in the lower grade
as per prescribed procedure. "

It has been pointed out that the standard of
education as laid down in Rule 3 of Apprenticeship
Rules, 1991 framed under the Apprenticeship Act, 1961
is as under :-

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"3. Standard of Education - (1) A person shall
be eligible for being engaged as a trade
apprentice - if he satisfies the minimum
educational qualifications as specified
in Schedule 1. "

Item I of Schedule 1 under Rule 3 (1) provides that
the essential minimum educational qualification for
fitter grade is passed Matriculation or its equivalent
or 10th class under 10 + 2 system.

In para 10 of their counter reply to the petition

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the respondents have stated that Khalasis working in Electrical Locomotive (Maintenance/repairs) sheds are also promoted as Helper Khalasi in grade Rs.800-1150 (R.P.S.) by virtue of their seniority and they are further promoted to class 'C' category ⁱⁿ ~~to~~ grade Rs.950-1500 (R.P.S.) to the extent of 25% against the talented quota in which Matriculation examination passed (10*2) qualifications can be added for being eligible to the said post, as laid down in Apprenticeship Act, as envisaged in paragraph 159 of the Indian Railway Establishment Manual Volume I (1989 Edition).

R.L.V. —
The contention of the learned counsel on behalf of the petitioners is that it would be unreasonable to hold a khalasi with a mere matriculation qualification eligible for promotion to class III category when the minimum educational requirement for appointment as Khalasi is Matriculation with ITI trained qualification, and as such it is urged that clause (ii) of paragraph 159 (1) of the Manual should be so ^{construed} ~~considered~~ as to exclude class IV employees with mere matriculation qualification and that all those who do not possess ITI trained qualification can be considered for promotion under Clause (iii) of paragraph 159(1) of the Manual.

The contention of the learned counsel for the petitioner is apparently attractive, ^{since} ~~prima facie~~ which ^{has}

stands to reason ~~to believe~~ that the qualification for selection for the post in class III category should not be less than the qualification required for appointment to the post in class IV category. But even though since 1988 the Railway Board has made the minimum qualification for appointment to the post of Electrical Khalasi as Matriculation with ITI trained, ^{the} provision in paragraph 159(1) of the Manual pertaining to promotion by selection for the serving employees has remained unamended. In such a situation it would be legitimate to think that the opportunity afforded to khalasi ^{with} ~~the~~ mere matriculation qualification is for the purpose of selecting such talented candidates who ^{being} ~~after~~ trained may be expected to come up to the mark that is not inferior to the candidates possessing ITI trained qualification in addition to Matriculation. It would certainly depend upon the nature and efficacy of the examination prescribed for selection to the Class III category from the Electric Khalasi to ensure that the mere matriculates ^{passing} such examination would be found as talented as an ITI trained selectee.

It has been pointed out by the learned counsel for the respondents that after the selection of ^a Khalasi ~~as~~ having mere matriculation qualification, he would be required to undergo six months training and it is only ~~after~~ after passing training ~~with~~ ^{successfully} that such

khalasi ^{will be} ~~has been~~ promoted to the ^{post of} skilled artisans/fitter in class III category as envisaged in the notification dated 4.3.1993 (Annexure R.A-4 to the rejoinder).

Having heard the learned counsel for the parties and in view of the discussions aforesaid, we are of the opinion that while candidates having ITI diploma are eligible to appear in the selection for the post in class III category, the candidates having mere matriculation qualification cannot be held ineligible in view of the provisions in Section 159 (1) Clause (ii) r/w, Item I of Schedule I under Rule 3(i) of the Apprenticeship Rule 1991. As no separate provisions of minimum educational qualification for the post of Electric Fitter has been provided in the Schedule I under Rule 3 of the Apprenticeship Rule 1991 the minimum educational qualification as provided for the category of fitter at Item 1 of the said schedule shall be applicable and as such the notice dated 29.6.1993 (Annexure ^{A-4 to the petitioner or} R/7 to the rejoinder) whereby the serving candidates having minimum educational qualification of Matriculation ^{pass} as well as the serving candidates having qualification of ITI fitter or equivalent qualification have been made eligible for promotion by selection, is, in our opinion,

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not assailable. Accordingly this petition as well as
O.A.601/93 fail and are hereby dismissed with no
order as to costs.

8d/-
(USHA SEN)
Member (A)

8d/-
(R.K. VARMA)
Vice- Chairman (Patna Bench)

30-5-94

Prepared by. *[Signature]*
01.06.94.

C.T.C.
[Signature]
01.6.94

V. K. SRIVASTAVA
Section Officer
Central Administrative Tribunal
ALLAHABAD