

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH,

ALLAHABAD.

....

Original Application No. 1702 of 1994.

this the 5th day of July'2001.

HON'BLE MR. S. DAYAL, MEMBER (A)

HON'BLE MR. RAFIQ UDDIN, MEMBER (J)

Sri Krishna, S/o Sri Brindawan, Khalasi under I.O.W.

Northern Railway, Etawah.

... Applicant.

By Advocate : Sri L.M. Singh for Sri B.N. Singh.

Versus.

1. Union of India through General Manager,
Northern Railway, Delhi.
2. The Divisional Railway Manager, Northern Railway,
Allahabad.
3. Divisional Superintending Engineer, Northern
Railway, Allahabad.
4. The Asstt. Engineer, Northern Railway, Etawah.
5. Sri Gyan Singh, S/o Nathoo Ram, Hammerman under
I.O.W., Northern Railway, Etawah.

... Respondents.

By Advocate : Sri D. Kumar for Sri A.K. Pandey.

O R D E R (ORAL)

S. DAYAL, MEMBER (A)

This application has been filed under Section 19 of the Administrative Tribunals Act, 1985 seeking directions to the respondents to promote the applicant as Black Smith in the grade of Rs. 950-1500/- against the existing vacancy or in the alternative to hold that ^{he} was deemed to have been promoted since 12.12.1990. Further prayer is

for setting-aside the order dated 7.9.1994 and directions to the respondents to promote the applicant as Black Smith from the date the first vacancy arising after the promotion of Naushey S/o Gulam Rashool or from the date of promotion of Sri Gyan Singh.

2. The case of the applicant is that the applicant was working as Khalasi since 11.11.1982. A trade test was held on 21.4.90 for selection of Black Smith and Hammerman from Khalasi. The applicant was placed at sl. no. 2 in that selection. The first man on the list was promoted as Black Smith on 29.5.90. It is claimed that Sri Gyan Singh, who was placed much below in the list, was appointed as Hammerman and the applicant^{who} was placed at sl. no. 2 was ignored. The applicant made a representation dated 12.12.90 for his promotion on which no action was taken. It is claimed that the file was with Vigilance department and when the file was released, Assistant Engineer, Northern Railway, Etawah instead of promoting the applicant as Black Smith arbitrarily promoted Sri Gyan Singh, Hammerman as Black Smith by holding a trade test on 19.8.93. It is claimed that the first list had not been exhausted and since the applicant was at sl. no. 2, he should have been promoted as Black Smith. The applicant had sought promotion to the post of Black Smith filed O.A. bearing no. 1469 of 1993 and the Division Bench of this Tribunal had directed the respondents to dispose of the representation of the applicant by a reasoned and speaking order. The respondents by order dated 7.9.94 disposed of the representation of the applicant by stating that the file of the selection on the basis of the trade test held on 24.1.90 had been seized by the Vigilance Department and the result of trade test was sent to the competent authority for approval on 14.8.91, but after scrutiny, Sr. DEN/III/ALD did not approve the above trade test result and

cancelled the trade test by letter dated 13.9.1991. Therefore, no valid panel remained on account of trade test held on 21.4.90. The applicant claims that prior to this reply, the respondents have never claimed or disclosed that the trade test held on 21.4.1990 had been cancelled. Therefore, the applicant's case should be considered on the basis of the trade test held on 21.4.1990.

3. We have heard the arguments of Sri L.M. Singh proxy counsel for Sri B.N. Singh, learned counsel for the applicant and Sri D. Kumar proxy counsel for Sri A.K. Pandey learned counsel for the respondents.

4. We find that the applicant has claimed that Sri Gyan Singh was placed much below in the list of trade test held on 21.4.90, but he was appointed as Hammerman. The said Gyan Singh was later on promoted as Black Smith by holding another trade test of Black Smith on 19.8.93. Since the trade test held on 21.4.90 had been cancelled by D.S.E. -III, N.R., Allahabad on 13.9.91, we find no arbitrariness in the appointment of Sri Gyan Singh as Black Smith on the basis of trade test held on 19.8.93. We also do not find the applicant's claim that Sri Gyan Singh was several places below the applicant in the trade test held on 21.4.90. Annexure-2 to the O.A. which is a list of showing the result of trade test filed by the applicant himself ^{shows} that Sri Naushey was placed at sl. no.1 as a result of trade test held of Black Smith and Sri Gyan Singh was at sl. no.1 as a result of trade test held for the trade of Hammerman of the same date. The marks obtained by Sri Naushey was 70 out of 100 for the trade of Black Smith and the applicant was obtained 67 marks out of 100, while the marks obtained by Sri Gyan Singh was 71 out of 100 for the trade of Hammerman. Therefore, the

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claim of the applicant that Sri Gyan Singh was several places below to him is not borne-out from the record. In consequence thereof, we do not find any merit in the O.A. and the same is dismissed. No costs.

Ravi Nandan

MEMBER (J)

Sanjay

MEMBER (A)

GIRISH/-