

13

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH

ALLAHABAD

Allahabad : Dated this 6th day of July, 2001.

Original Application No.1013 of 1995.

CORAM :-

Hon'ble Mr. RRK Trivedi, V.C.

Hon'ble Maj Gen KK Srivastava, A.M.

Narsingh Son of Shri Hayat Singh,
Presently posted as Staff Car Driver
Under Inspector of Works, Divisional Repair Centre,
Northern Railway, Moradabad, resident of
Quarter No. OH-31-F, Railway Bartala Colony,
Moradabad.

(Sri AK Sinha, Advocate)

. Applicant

Versus

1. Union of India,
Through Divisional Railway Manager,
Northern Railway, Moradabad.
2. Senior Divisional Personnel Officer,
Northern Railway, Moradabad.

(Sri AK Garu, Advocate)

. Respondents

O R D E R

By Hon'ble Mr. RRK Trivedi, V.C.

In this OA filed under Section 19 of the Administrative Tribunals Act, 1985, the applicant has challenged the order dated 13-9-1995 (Annexure-A-2 to the OA) by which six persons were called to appear in the professional test for being given higher pay scale. The case of the applicant is that he was senior to three of them, namely, Sri Sang Ram, Sri Vijay Kumar and Sri Naresh Kumar and there was no legal and valid reasons to exclude applicant from the test for giving higher pay scale. Counter affidavit has been filed in para 7 whereof it has been stated that the seniority list relied upon by the applicant was provisional and not final. However, the respondents have



14

not filed any other seniority list to show that the applicant was junior to the three persons, namely, Sri Sang Ram, Sri Vijay Kumar Sharma, and Sri Naresh Kumar. In para 9 it has been stated that after restructuring the Divisional Railway Manager decided that there shall be one cadre of Vehicle Drivers in the Division. It is also stated that three Drivers have been called for trade test by giving benefit of restructuring but reason for excluding the applicant has not been stated. In these circumstances we are of the view that the grievance of the applicant is justified that he should also have been called to appear in professional test, on 13-1-1995 while admitting this OA for hearing this Tribunal passed the interim order as under:-

"In the meantime, we provide that the Applicant shall also be called provisionally to appear in the proposed selection for the post of Car/Lorry Driver in the scale of 1200-1800. Until further order, the result of the Applicant shall not be declared. A copy of this order may be furnished to the Learned Counsel for the Applicant today".

2. It is further provided that in case the applicant qualifies at the said selection, one post of Car/Lorry Driver in the scale of Rs.1200-1800 shall be left unfilled until further orders".
2. The respondents applied for the vacation of the interim order but MA No.644/96 was rejected and the interim order was confirmed on 31-5-1996.
3. In the above circumstances as we are satisfied that the name of the applicant was illegally excluded by the respondents and he should have been called for to appear in the selection for the post of Car/Lorry Driver in the scale of Rs.1200-1800. The application is accordingly disposed of finally in terms of the order dated 13-10-1995 readwith the order dated 31-5-1996 .



If the applicant was called to appear in the test and he has already appeared the result shall be declared and if he is found successful, he shall be given the scale from the same date ^{from} which his juniors were given. There shall be no order as to costs.



Member (A)



Vice Chairman

Dube/