

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH.
ALLAHABAD.

....

Original Application No. 188 of 1999

this the 3rd day of March 2004.

HON'BLE MAJ GEN K.K. SRIVASTAVA, MEMBER(A)
HON'BLE MRS. MEERA CHHIBBER, MEMBER(J)

1. Babulal, S/o Sri Bud Bahadur.
2. Dhani Ram, S/o Sri phulloo.
3. Sujan, S/o Sri Rajju.
4. P.V. Joseph, S/o Sri P.J. Begis.
5. Hardeep, S/o Sri Miyan Singh.
6. Babulal, S/o Sri Gorelal.

7. Applicants.

By Advocate : Sri R.K. Nigam.

Versus.

1. Union of India through Secretary, Ministry of Defence, New Delhi.
2. The Commandant Works Engineer, Jhansi.
3. Garrison Engineer, Babina Jhansi.
4. Chief Engineer, Lucknow Zone, Lucknow.
5. The Chief Engineer, Central Command, Lucknow.
6. Garrison Engineer, Jhansi.

Respondents.

By Advocate : Sri S. Chaturvedi.

ORDER

PER MRS. MEERA CHHIBBER, MEMBER(J)

By this O.A., six applicants have sought for quashing of the result dated 23.1.1997 (page 15) ~~result~~ of the candidates who have appeared in the trade test for promotion from H.S.Gr.II to H.S. Gr.I, in the said result, applicant no.1 was figured at sl. no. 15, applicant no.2 was at sl. no.19, applicant no.3 was at sl. no. 11 in the list of Electrician¹ has been shown as failed, applicant no.4 at sl. no.2, applicant no.5 has also been shown at sl. no.4 in the category of Fitter pipe line H.S.Gr.II to H.S.Gr.I and

B

— was shown as failed, and applicant no. 6 was at sl. no. 18.

All the applicants are shown as failed in the said list, while other persons are shown passed or as absent whatever was the situation. The applicant have further sought a direction to give promotion to all of them to the post of H.S. Gr. I according to their seniority and pay them salary.

2. It is submitted by the applicant that there was no need to hold the test or interview and they were entitled to be promoted according to their seniority alone. In support of their claim, they have relied on the judgment given by Jabalpur Bench of the Tribunal dated 6.10.95 in O.A. no. 658 of 1990 (Annexure-2).

3. O.A. is opposed by the respondents on the ground the O.A.

— that ^{is} bad for non-joinder of necessary parties ~~as~~ ^{in as} much ^{as} as the applicants have sought quashing of the result declared after trade test, but none of the persons who have been declared passed have been impleaded as respondents in the O.A. and in case the O.A. was to be allowed, their rights would adversely be affected, therefore, this O.A. is liable to be dismissed on this preliminary objection. They have further submitted that law is well settled by now that once the candidate appeared in the test and are declared failed, later on they cannot challenge the holding of the test, therefore, it is liable to be dismissed on this ground as well. They have further explained that promotion to the grade of H.S. Gr. I can ^{only be} given when the candidate passes the prescribed test for promotion and since all the applicants appeared in the test, but failed, therefore, they cannot get the relief as prayed by them.

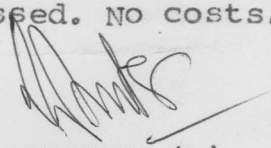
4. We have heard both the counsel and perused the pleadings as well.

5. perusal of the result shows that number of candidates

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were declared as passed, while all the applicants have been declared as failed in the trade test. The applicants belong to different categories as mentioned in para 1 (supra). The law is well settled by the Hon'ble Supreme Court that those who appeared in the test and are declared as failed, cannot be allowed to turn-around and challenge the holding of the test itself. Admittedly, all the applicants had appeared in the test. This fact has not been denied by the applicants. They have sought a relief to quash the result. Quashing of the result, if allowed, would naturally affect those candidates who are declared passed in the said result adversely, but none of those persons have been impleaded as respondents in the present O.A., therefore, this O.A. suffers from inherent lacuna of non-joinder of necessary parties, therefore, this O.A. is to be dismissed on this ground alone. We have seen the judgment which has been relied-upon by the applicants and ^{find 2} the same is not at all applicable in the present set of facts ^{in 8} of the present case. The applicants' counsel has not been able to show us any rule by which applicants were entitled to get promotion from H.S. Gr.II to H.S.Gr.I simply ~~because~~ on the basis of seniority without appearing in the trade test. We, therefore, find no merit in the O.A. ~~and~~ the same is accordingly dismissed. No costs.


MEMBER (J)


MEMBER (A)

GIRISH/-