

3.2.2003

HON.MR.JUSTICE R.R.K.TRIVEDI,V.C.

HON.MAJ.GEN.K.K.SRIVASTAVA, MEMBER(A)

We have heard Shri T.S.Pandey learned counsel for the applicant and Shri Anil Kumar learned counsel for the respondents.

By this application u/s 17 of A.T.Act 1985 applicant has prayed to punish respondents for willful disobedience of the order dated 2.11.01 passed in OA 1245/01. The direction given was as under:-

" The OA is accordingly disposed of finally with direction to the respondents to consider redployment of the applicants as ~~TCs~~ or as Guards Goods or as Assistant Guards, in other divisions/railways within a period of four months from the date of receipt of the copy of this order. There shall be no order as to costs."

By order dated 11.9.02 notice was issued to respondents to show cause why they may not be punished for committing contempt of this Tribunal. In response to the notice respondents have filed counter. It appears that in pursuance of the order respondents gave opportunity to the applicants ~~who appeared~~ in the test for appointment as Guard ^{to} (Goods). The order was passed on 10.6.02. The copy of the order has been filed as (Annexure 2).

The learned counsel for the applicant however, submits that applicants refused to appear in the test. It is submitted that the import of the order dated 2.11.01 was to appoint applicants as Assistant Guards and it was not necessary for them to appear in the test for promotion as Guards (Goods). However, we do not agree with the submission made by the counsel for the applicants. From perusal of the order it is clear that the option was left to respondents to accommodate applicants who were rendered surplus as Assistant Guards ^{Goods (Goods) and TCs}. They could be accommodated ^{either of the} three posts mentioned in the order, according to the availability of the posts. The applicants could not

:: 2 ::

insist that they should be given redeployment against a particular post, out of three, mentioned in the order. As the respondents acting in pursuance of the order offered opportunity to the applicants and they refused to avail the same, it is difficult to say that any case of contempt is made out. The application is accordingly rejected. Notices are discharged. No order as to costs.


MEMBER (A)


VICE CHAIRMAN

Uv/