

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD.

Allahabad this the 15th day of March, 2004.

Review Application No. 133 of 2003
IN
Original Application No. 891 of 1997.

Hon'ble Mr. Justice S.R. Singh, Vice-Chairman.

Hon'ble Mr. D.R. Tiwari, Member- A.

Awadhesh Kumar Pradhan S/o Late Omkar Nath Pradhan
a/a 41 years, working as Wireless Mechanic under
Microwave Lab, N.E. Rly., Gorakhpur. R/o Mohalla-Sidharipur
P.O. Gorakhnath, Distt. Gorakhpur.

.....Applicant

Counsel for the applicant :- Sri S.K. Om

V E R S U S

1. Union of India through the General Manager,
N.E. Rly., Gorakhpur.
2. Dy. Chief Signal & Telecom Engineer (MW)
NER, Gorakhpur.
3. General Manager (P), NER, Gorakhpur.

.....Respondents

Counsel for the respondents :- Sri G.P. Agarwal

O R D E R

By Hon'ble Mr. Justice S.R. Singh, VC.

The applicant filed O.A No. 891/1997 for issuance of direction to respondents to appoint him to the post of Tele Communication Inspector Gr. III 10.09.1989 in the scale of Rs. 425-700 (Rs. 1400-2300) coupled with the prayer to quash the letter dated 08.07.1997. It appears that by letter dated 21/22.04.1997 a written departmental examination was scheduled to be held on 10.05.1997 for appointment to the post of Telecommunication Inspector Gr.III. The applicant and 20 other general candidates were required to appear in the written departmental examination which was scheduled to be held on

10.05.1997 and on 17.05.1997 for absencies. The applicant preferred a representation against the letter dated 21/22.04.1997 on the ground that he ought to have been exempted from appearing in the written departmental examination inasmuchas in the year 1984 he was appointed on the post of Wireless Mechanic and he was assured that after 5 years he would be promoted to the post of Telecommunication Inspector Gr.III. The O.A came to be dismissed vide order dated 17.09.2003 with the observation that in case the applicant appears in the test in future the order dismissing the O.A would not come in his way.

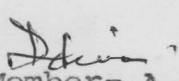
2. The present review petition has been instituted on two grounds. First, that the applicant had qualified for appointment to the post of Telecommunication Inspector Gr.III but the department appointed him to the post of Wireless Mechanic, and second that the Tribunal erred in holding that the applicant was given opportunity to appear in the written departmental examination vide impugned order dated 22.04.1997 but he refused to appear and filed the O.A inasmuchas the examination scheduled to be held on 10.05.1997 was postponed and subsequently the applicant's name was deleted from list of the candidates who were afforded opportunity to appear in the written departmental examination vide letter dated 14.08.1997. So far as the first ground is concerned the Tribunal had rightly observed that the test in which the applicant was selected in the year 1984 was not conducted by the Railway Recruitment Board as per the requirement of paragraph 148 of I.R.E.M Vol. I and test conducted by any other authority conferred no right in favour of the applicant. The learned counsel for the applicant submits that since the applicant was claiming compassionate appointment he could have been inducted to the post of Telecommunication Inspector Gr.III by holding a test through an agency other than the RRB in relaxation of the rules. No order was brought to the notice of the Tribunal relaxing statutory rules which visualised

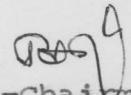
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direct recruitment through the RRB. Accordingly we find no force in the first ground taken by the learned counsel for the applicant.

3. The second ground for review is that the Tribunal was not justified in its observation that the applicant refused to appear in the test inasmuch as the name of the applicant was deleted from amongst the list of the candidates who were required to appear in the departmental test. The written departmental examination in the year 1997 was postponed vide letter dated 15.05.1997 and it was re-scheduled vide letter dated 14.08.1997 in which the name of the applicant did not appear amongst the general category candidates who were required to appear in the written departmental examination. These letters have been filed for the first time in the present review application and the applicant had in fact challenged the order/letter dated 21/22.04.1997 by which the examination was proposed to be held on 10.05.1997. The observation made by the Tribunal, therefore, cannot be faulted with. The applicant appeared in the written test held subsequently in which he was declared successful as would be evident from the letter dated 22.09.2003 and has since been promoted to the post of Junior Engineer (Telecom) in the pay scale Rs. 5000-8000. The Review it is well settled is not an appeal in disguise. The Review petition filed on 22.12.2003 is also beyond time about two months. The explanation for delay is that the applicant did not receive the letter written by the counsel and he contacted the counsel only on 03.12.2003 when he came to know about the order. In our opinion, the explanation for delay is not sufficient. The Review Petition is liable to be dismissed on merits as well as on the ground of limitation.

4. Accordingly the Review Petition is dismissed with no costs.


Member-A.


Vice-Chairman.

/Anand/