

(OPEN COURT)

**CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH
ALLAHABAD**

HON'BLE MR. A.K. GAUR, MEMBER (J).
HON'BLE MR. D. C. LAKHA, MEMBER (A).

Original Application Number. 623 OF 2007.

ALLAHABAD this the 29th day of October, 2009.

1. Mohd. Shafiq Ansari, aged about 47 years, Son of Shri Mehboob Ali, resident of Ayyan Zai, Jalal Nagar, Shahjahanpur.
2. Satyadev, aged about 47 years, Son of Shri Ram, Resident of B-28-A, Railway Colony, Dhaka Tal, Shahjahanpur
.....Applicant.

VER S U S

1. Union of India through the General Manager, Northern Railway, Baroda House, New Delhi.
2. The Senior Divisional Personnel Officer, Northern Railway, Moradabad Division, Moradabad.
3. Assistant Divisional Engineer, Northern Railway, Shahjahanpur.

.....Respondents

Advocate for the applicants: Sri T.S. Pandey
Advocate for the Respondents : Sri A.K. Pandey

ORDER

(Delivered by Hon'ble Mr. A.K. Gaur, J.M)

The facts of the case, in brief, are that the applicants in pursuance of 25% departmental quota for promotion from the post of Khalasi to the post of Painter and Carpenter appeared in the trade test and result of which was published on 18.08.1991. The applicants were declared successful in the trade test. Both the applicants were posted as Carpenter and Painter and were discharging their duties in pay scale of Rs. 950-1500. Learned counsel for the applicant submitted that despite the fact that the applicants were discharging their duties on the post of Painter

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and Carpenter w.e.f. 01.10.1991, they were compelled to work as Gangman, which is a Group 'D' post. Aggrieved the applicants filed O.A No. 14/1997, which was allowed vide judgment and order dated 11.09.2002 (Annexure -4 of O.A) and in compliance thereto, the respondents vide order dated 22.04.2003 (Annexure-5 of O.A) informed the applicants that their services shall be regularized on the post of Painter and Carpenter immediately on the availability of the vacancy in the Division. It is alleged, that although the vacancies were available, the respondents did not consider their case for regularization and the respondent No. 3 again issued the order for holding trade test on 02.06.2007, which was subsequently modified vide order dated 05.06.2007 and trade test was directed to be conducted on 11.06.2007 alongwith other eligible candidates.

2. Learned counsel for the applicants would contend that subsequent trade test directed to be conducted by the respondents is not in accordance with provisions of rules as once the applicants have already passed the trade test in the year 1991 there is no justification for the respondents to hold trade test again.

3. Sri A.K. Pandey, Learned counsel for the respondents on the other hand submitted that the applicants have already preferred representation for redressal of their grievance and without there being any order, they have approached this Tribunal.

4. Having heard learned counsel for both sides, we are firmly of the view that once the applicants have already passed the trade in the year 1991, there is no justification for calling them again for trade test. No

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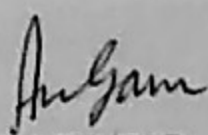
specific reasons have been recorded by the respondents in their order dated 22.04.2003 in this regard. According to the applicant the subsequent Notification dated 05.06.2007, is totally arbitrary as we find no justification in the action of the respondents to call the applicants again for trade test.

5. Having given our thoughtful consideration to the pleas advanced by the learned counsel for both sides, we hereby direct the applicants to file a certified copy of this order alongwith additional representation raising their grievance as in the present O.A before the concerned competent authority within a period of two weeks from the date of receipt of certified copy of this order. If such a representation is filed within the stipulated period of time, the competent authority shall consider and decide the same taking into account all the points raised by the applicants in their representation and in additional representation by a reasoned and speaking order within a period of three months on receipt of certified copy of the order (as contemplated above) and communicate the decision to the applicants.

6. With the aforesaid directions, the O.A is disposed of finally with no order as to costs.

Be it noted that we have not passed any order on merits of the case.


MEMBER- A.


MEMBER- J.

/Anand/