

(A)

**CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH**

:Date of Decision: 20.8.99

OA. No.233/91

Mr.Ashok C. Bose

: Petitioner (s)

Mr P.H. Pathak

: Advocate for the petitioner(s)

Versus

Union of India.

: Respondent(s)

Mr.N.S. Shevde

: Advocate for the respondent(s)

CORAM

Hon'ble Mr. V. Radhakrishnan

: Member (A)

Hon'ble Mr . P.C. Kannan

: Member(J)

JUDGMENT

1. Whether Reporters of Local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the Judgment?
4. Whether it needs to be circulated to other Benches of the Tribunal?

No

Shri Ashok C.Bose,
ATTO Surendranagar,
C/o. CTCI Office (W.R.)
Rajkot.

: Applicant

Advocate Mr.P.H.Pathak

Versus

Union of India,
Notice to be served through:
Divisional Railway Manager(W)
Western Railway,
Kothi Compound,
Rajkot.

: Respondents

Advocate: Mr.N.S.Shevde

JUDGMENT
OA/233/91

Date: 20 -8-99

Per: Hon'ble Mr.V.Radhakrishnan

: Member(A)

The applicant in this OA challenges the order issued by the respondent dated 25.4.91 in not considering the applicant eligible for the post of Assistant Telephone Operator (ATTO). The applicant who was senior khalasi was working on adhoc basis at different times as ATTO, for short periods from 1975, and since 27.12.88 he was given adhoc promotion to officiate as ATTO. The respondents had issued notice inviting application for regularly filling up the post of ATTO. The applicant had also applied for the same. However, the respondents vide Anneuxre A-3 rejected the applicant's request for appearing in the selection on the ground that he did not fulfil the condition for selection to the post of ATTO i.e. he did not possess matriculation qualification. The applicant states that he was working continuously as ATTO for about three years and he had performed

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his duties efficiently therefore, there was no reason to call him for selection. The applicant also made representation to the higher authorities but no reply has been received. Hence, he has prayed for the following reliefs:-

- "(A) The Hon'ble Tribunal be pleased to declare the impugned action on the part of the respondents to reject the application of the applicant for consideration in selection to the post of ATTO in scale of Rs.950-1500, on the ground of not possessing the requisite qualification as arbitrary, illegal, unconstitutional and be pleased to quash and set aside it.
- (B) Be pleased to declare the impugned letter whereby the application of the applicant, to consider for the post of ATTO is rejected without giving any reason, as illegal, invalid and in flagrant violation of the principles of natural justice and fair play.
- (C) Be pleased to direct the respondents to regularise the applicant as ATTO as he has completed 3 years of services on the post, and to grant all the benefits as regular ATTO forthwith in light of the judgment of the Hon. Supreme Court.
- (D) Any other relief to which the Hon'ble Tribunal deems fit and proper in interest of justice."

The respondents have filed a reply. They have stated that the applicant was not having qualification of matriculation for being called for selection to the post of ATTO and hence he was not called. They have also stated that the persons working on adhoc basis as ATTO are seniors to the applicant. In so far as the question of reversion to the post to his substantive post is concerned, they have stated that the applicant was working on adhoc basis and hence, he had no right to continue in the post and he could be reverted at any time. It is also pointed that the selection was held and none qualified the same and hence no one was placed in the panel.

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In the additional reply the respondents have pointed out that as per the

notification issued from the headquarters dated 26.5.92 forwarding copy of Railway Board letter dated 30.4.1986 60% vacancies in the post of ATTO is to be filled from promotees , without insisting on matriculation qualification. They have stated that the Railway Board letter dated 30.4.1986 was not available in the Respondent Division and the notification of selection dated 3.4.91 was issued by the Division. Accordingly, they had prescribed matriculation as minimum qualification and according to that the applicant did not qualify and hence he was not called for interview. However, they made next selection held in 1992 as per notification dated 28.7.92 . The applicant was also considered in the selection but he failed in the written test. Thereafter ,again a test was conducted in December, 1995 and the applicant appeared in the selection and passed and was placed in the panel and subsequently, he was promoted w.e.f. 2.5.96.

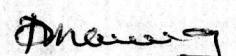
The applicant had filed reply to the additional reply filed by the respondents. He stated that the juniors to the applicant were promoted as ATTO on 26.5.92 and ingnoring the applicant even though he was senior to them and such he contends that reversion of the applicant was not in order.

We have heard both the learned counsel and gone through the documents. It is seen that the respondents have stated that in 1991 minimum qualification of matriculation was prescribed and the applicant did not possess the matriculation qualification and hence he was not called for the test. At this point of time they were not aware that candidates with less than Matric could also be called for the test. It is also true that the applicant was working on adhoc basis was reverted in 1991 for which the applicant had filed separate OA. The respondents realised after receipt of notification from the headquarter's office that person possessing less than the minimum qualification of matriculation have also to be considered. Accordingly, the applicant was called for the test for ATTO held in 1992 but unfortunately the

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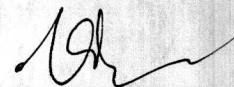
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applicant did not pass the test and hence failed. Even though the applicant was not called for the test held in 1991 none qualified in the test and subsequent test held in 1992 the applicant was called. In so far as the question of reversion of the applicant is concerned, it has been dealt with by separate OA. In view of the fact that the applicant was subsequently called for test held in 1992 for promotion to the post of ATTO, the grievance of the applicant that he was not called for in the test does not survive. Accordingly, the OA stands disposed of. No costs.



(P.C.Kannan)

Member(J)



(V.Radhakrishnan)

Member(A)