

CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

O.A.NO. /164/92
T.A.NO.

DATE OF DECISION 23/8/1996

Sushil Kumar Shukla

Petitioner

Mr.R.R.Tripathi

Advocate for the Petitioner [s]

Versus

Union of India & ors.

Respondent

Mr.A.S.Kothari

Advocate for the Respondent [s]

CORAM


The Hon'ble Mr. V.Radhakrishnan

Member (A)

The Hon'ble Mr. T.N.Bhat

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 ?
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Sushil Kumar Shukla

Add: Radha Krishna
8, Gayak Wadi,
Rajkot.

Applicant

Advocate

Mr.R.R.Tripathi

versus

1. Union of India, Through :
The General Manager,
Western Railway,
Churchgate,
Bombay.
2. Divisional Railway Manager,
Rajkot Division,
W.Rly., Rajkot.
3. Sr.Divisional Operating Supdt.,
W.Rly., Rajkot Division,
Rajkot.

Respondents

Advocate

Mr.A.S.Kothari

J U D G E M E N T

O.A.164 of 1992

Date:23/8/1996

Per Hon'ble Mr.V.Radhakrishnan

Member (A)

The applicant was selected as Traffic Apprentice and had completed his training successfully and had obtained 3rd rank in the merit list. At the time of appointment based on the result of the examination he was posted as Assistant Yard Master. Normally the Traffic Apprentices are allotted the followings categories of posts.

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1. Assistant Train Controller
2. Assistant Yard Master
3. Assistant Station Master
4. Transportation Inspector

2. The post of Assistant Train Controller carries a higher pay scale of Rs.1400-2600/- while other posts are in the scale of Rs.1400-2300/-. Out of 3 persons posted as Assistant Train Controller, 2 persons had obtained lower rank in the examination in comparison with the applicant. None was posted as Assistant Yard Master. The grievance of the applicant is that he should have been considered for the post of Assistant Train Controller. It is not only in the higher pay scale but has better promotional chances. Accordingly, the applicant claims the following reliefs :-

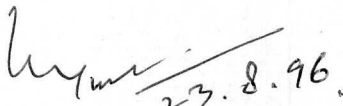
- (A) The Hon'ble Tribunal be pleased to quash and set aside the impugned order Ann.A/2, dated 21.3.1990 to the extent, it deprives the applicant of his right of being posted as Assistant Train Controller and be further pleased to direct the respondent-authorities to give posting/appointment to the applicant as Assistant Train Controller or in the alternative as the Transportation Inspector from the date of the impugned order, with all the consequential benefits.

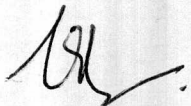
(B) Be pleased to grant any other appropriate relief/s as may be deemed just and proper in the facts and circumstances of the case."

3. The respondents have filed reply. They have admitted the facts of the applicant but they are not in a position to give the basis on which candidates after passing the examination are allotted to different categories of posts. It has been stated that the posting is done after due consideration by the Branch Officers based on the aptitude and suitability. They have also not denied that persons juniors to the applicant have been posted as Assistant Train Controller.

4. It is quite evident from the reply of the respondents that they are not following any criteria for allotting different categories of posts to the candidates. There is no doubt that the applicant had obtained 3rd rank in the examination and when sufficient number of vacancies would be available in Assistant Train Controller, he should have been considered for the same. There is no sufficient explanation as to why the respondents did not consider the applicant. The grievance of the applicant that he was discriminated by the fact that the persons who obtained lower rank than the applicant have been posted as Assistant Train Controller appears

justified. Therefore, we find that the action of the respondents is liable to be struck down. We accordingly set aside the impugned order Annexure A-2, dated 21-3-1990 to the extent that it deprives the applicant of his right for being considered for the post of Assistant Train Controller. Accordingly, the application is allowed. The respondents are directed to consider the applicant for the post of Assistant Train Controller in the available vacancy or if there is no vacancy, in the next vacancy which may arise within a period of 3 months from the date of the receipt of a copy of this order. No order as to costs.


(T.N.BHAT)
Member (J)


(V.RADHAKRISHNAN)
Member (A)

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