

## NOTES OF THE REGISTRY

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ORDER DATED 03-11-2004.

None appears for the Applicant; nor the Applicant is present himself. No request has also been made on behalf of the Applicant seeking adjournment. Since this is a year old case of 2003 (where pleadings have been completed long ago) with the aid and assistance of Shri R.C. Rath, Learned Standing Counsel appearing for the Respondents/ Railways, we have perused the materials placed on record and heard him at length.

2. Applicant was appointed as a night watchman, on 29.09.1987, in the Recreation Club of South Eastern Railways at Barasuan; which is a quasi-administrative Organisation of the Railways. As one time relaxation/ compensation, the Railways decided to grant regular employment to persons like the Applicant engaged in quasi administrative Organisation of the Railways in Gr.D category and, accordingly, Headquarters of the South Eastern Railway called for names of such persons (like the Applicant) from various Divisions. Though the name of the Applicant was sent for consideration, his candidature was rejected on the ground that at the time of entry into services of the Railway Recreation Club at Barasuan, he was below aged. As against the said decision, the Applicant (by way of filing the present Original Application under section 19 of the Administrative Tribunals Act, 1985) has sought

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for intervention of this Tribunal seeking direction to the Respondents to consider the case of the Applicant for being appointed in a Gr.D post in Railways.

3. Respondents, by filing a counter, have stated that the name of the Applicant was not approved by the Railway Board on the ground that he was under-age (by one year) at the time of his initial engagement as per Estt. Sl.No. 124/2000. Since the Applicant was engaged initially below the prescribed age limit, his name was not approved by the Railway Board and, as a result, he was not called to the screening test; for which the Applicant is not to get any relief as claimed for.

4. No rejoinder has, however, been filed by the Applicant.

5. Learned Standing Counsel appearing for the Railways, has vehemently opposed the prayer of the Applicant stating that since he was not upto the age, at the time of his entry into the services of the Recreation Club (as per the Estt. Sl.No. 124/2000) his case was rightly turned down and, therefore, this Tribunal is not to interfere in the matter.

6. In order to resolve the only plea of the Respondents (for rejecting the case of the Applicant) we looked to the Estt. Sl.No. 124/2000; relevant portion of which

is extracted below:-

"3. The matter has been considered by the Board. It has now been decided that as a one time relaxation, the Railways may consider absorption of only those staff of Quasi-administrative Offices/ Organisations who were on roll continuously for a period of at least three years as on 10.06.1997 and are still on roll, subject to fulfilment of prescribed educational qualification required for recruitment to Gr.D posts. Such staff should have been engaged within the prescribed age limit, xx xx"

7. It is not the case of the Respondents that the Applicant was not educationally qualified; nor is it their case that he was not in the roll as on the cut off date. The only embargo upon which the Respondents are harping is the age factor. In this connection it is to be noted here that the Recreation Club of the Railways is a quasi-administrative Organisation. At the time of the engagement of the Applicant no recruitment Rule of Govt. of India was adhered to. The Estt. Sl. 124/2000 envisages that one has to complete three years as on 10.6.1997 and was/is in roll on the date of issuance of the Estt. Sl. No. 124/2000 that came into force on 19-07-2000. Therefore, Applicant's eligibility will naturally, be considered prior to three years which approximately comes to 10-6-1994. It is a fact that the Applicant was within the age as on 10-06-1994. Therefore, his case ought to have been taken into consideration (for which his name was rightly recommended by the General Secretary of the South Eastern Railway

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| <p>Copy of order dt. 3/11/04<br/>forwarded to the Council<br/>for both sides</p> <p><i>[Signature]</i><br/>23/11/04</p> | <p>Congress Union.</p> <p>8. In the above said premises, the Respondents are hereby directed to confer on the Applicant all the benefits (as has been conferred on other similarly situated persons as per the Circular/ Estt. Sl. No. 124/2000 dated 19.7.2000) retrospectively from the date the same has been accrued in favour of similarly placed persons.</p> <p>9. In the result, this Original Application is allowed. No costs.</p> <div style="display: flex; justify-content: space-between;"> <div data-bbox="744 1065 1042 1223"> <p><i>[Signature]</i><br/>(B.N. SOM)<br/>Vice-Chairman</p> </div> <div data-bbox="1097 1052 1552 1289"> <p><i>[Signature]</i><br/>(M. R. MOHANTY)<br/>Member (Judicial)</p> </div> </div> |