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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JODHPUR BENCH, JODHPUR.

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Date of Decision: 09.9.97

OA 445/95

Mukhtiyar Singh, Shunter in the Loco Shed, Rewari, Northern Railway (Haryana).

...Applicant

VERSUS

1. Union of India through General Manager, Northern Railway, Baroda House, New Delhi.
2. Assistant Personnel Officer, Northern Railway, Bikaner Division, Bikaner.
3. Divisional Mechanical Engineer (Power), Northern Railway, Bikaner Division, Bikaner.
4. Loco Foreman, Loco Shed Rewari (Haryana), Northern Railway.

... Respondents.

CORAM :

HON'BLE MR. GOPAL KRISHNA, VICE CHAIRMAN

HON'BLE MR. O.P. SHARMA, ADMINISTRATIVE MEMBER

For the Applicant

... Mr. J.K. Kaushik

For the Respondents

... Mr. R.K. Soni.

ORDER

PER HON'BLE MR. O.P. SHARMA, ADMINISTRATIVE MEMBER

In this application u/s 19 of the Administrative Tribunals Act, 1985, the applicant has prayed that the order dated 6.9.95 (Ann.A/1), by which his name from the panel of Goods Driver stands deleted, may be quashed with all consequential benefits including the benefits available under the restructuring scheme.

2. The applicant has been working on the post of Goods Driver on ad hoc basis. He appeared in the regular selection for the post of Goods Driver and on the basis of the result of the written examination and viva voce, his name was placed in the panel Ann.A/2 dated 7.6.95. However, in a subsequent panel Ann.A/1 dated 6.9.95, the name of the applicant was deleted on the ground that as a result of further screening held in terms of the General Manager, Northern Railway's instructions, communicated by letter dated 4.4.84, he was not found suitable for inclusion in the panel. (Panel Ann.A/1 has been described as provisional in nature.) The applicant was, therefore, sought to be reverted from the post of Goods Driver, appointed on ad hoc basis. However, the Tribunal passed an interim direction on 19.10.95, by which the operation of the order, at Ann. A/1, dated 6.9.95 was stayed. The applicant has been continuing to work on the post of Goods Driver on ad hoc basis.

3. The case of the respondents is that as a result of a further screening

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conducted in terms of the General Manager, Northern Railway's instructions incorporated in Ann.R-3 dated 4.4.84, the applicant was found unsuitable for inclusion in the selection panel and, therefore, his name was deleted while drawing up panel Ann.A-1 dated 6.9.95. The case of the applicant is that under the rules no such screening, as provided in Ann.R-3, could have been conducted after the applicant had passed the selection test and his name had been included in the selection panel. The General Manager has no power to frame any rule of this nature and, therefore, the screening conducted by the respondents is illegal.

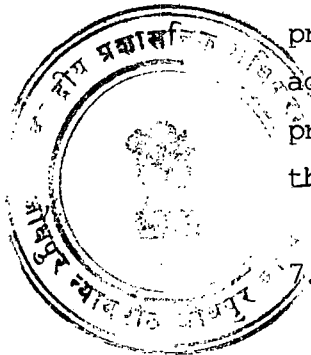
4. We have heard the learned counsel for the parties and have perused the material on record.

5. The respondents were directed to produce the records relating to the screening of the candidates in terms of Ann.R-3 dated 4.4.84. The records were produced before us and these have been perused by us. The learned counsel for the applicant stated during the arguments that apart from the legality of the screening in terms of Ann.R-3, which has been questioned by the applicant, in fact no proper screening, even as per Ann.R-3, has been conducted by the respondents. In terms of para-3 of Ann.R-3 dated 4.4.84, a screening is required to be conducted after the Drivers have passed the selection test but before they are actually given promotion and appointment on the post of Driver. The Screening Committee is to consist of three officers viz Sr.DSO/DSO, Sr.DME and Sr.DMO. A perusal of the records produced before us shows that screening which is required to be conducted by a committee of three officers, has actually not been conducted. Instead only one officer namely the DSO has screened the candidates. It is as a result of the screening of the DSO and his findings thereafter that the name of the applicant has not been included in the panel Ann.A-1 dated 6.9.95. We are of the view that there is no bar to the General Manager of the Railway prescribing certain additional requirements from the point of view of ensuring safety of the material and the passengers before promotions/appointments are given on the post of Driver. We, therefore, cannot accept the applicant's grievance regarding the General Manager not being empowered in principle to issue any such additional instructions for screening of the persons who have already been empanelled particularly when these instructions are uniformly followed in respect of all the persons who are empanelled. However, the respondents were required, in terms of Ann.R-3, to conduct a proper screening in accordance with the terms and conditions laid down in Ann.R-3. In other words, the screening should have been conducted by a committee consisting of three officers mentioned in para-3 of the instructions contained in Ann.R-3. The very purpose of screening prescribed vide Ann.R-3 has been defeated when it has not been conducted by a committee that has been prescribed in Ann.R-3 and also particularly when the medical officer is not


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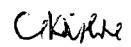
included in the committee which was to screen the officials. Therefore, exclusion of the name of the applicant from the selection panel on the basis of the so called screening conducted by the respondents, which is in fact only by one officer, cannot be sustained.

6. In the circumstances of the present case, we direct that the respondents shall conduct a fresh screening, through a committee consisting of the officers mentioned in para-3 of Ann.R-3, within a period of one month from the date of receipt of a copy of this order. The screening should be conducted strictly in accordance with the instructions contained in Ann.R-3. If the applicant is found suitable on the basis of such screening, he would be entitled to inclusion of his name in Ann.A-1 dated 6.9.95. The applicant has already been continuing on the post of Goods Driver on ad hoc basis and also on the basis of the interim direction issued by the Tribunal. If the applicant is found suitable for promotion on the basis of the result of the screening to be conducted in accordance with the directions given above, the applicant shall be granted promotion to the post of Goods Driver from the date from which person junior to ^{him} ~~them~~ has been granted promotion.



7. The OA stands disposed of accordingly. No order as to costs.


(O.P.SHARMA)
ADM.MEMBER


(GOPAL KRISHNA)
VICE CHAIRMAN

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