IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,JODHPUR BENCH,JODHPUR.

* * *

Date of Decision: 24.2.98

OA 461/95

Mam Chand 'N', Goods Driver in Loco Shed Rewari, Northern Railway.

... Applicant

Versus

1. Union of India through the 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, Northern Railway.

... Respondents

CORAM:

HON'BLE MR.GOPAL KRISHNA, VICE CHAIRMAN

HON'BLE MR.GOPAL SINGH, ADMINISTRATIVE MEMBER

For the Applicant ... Mr.J.K.Kaushik

For the Respondents ... Mr.P.R.Golia, brief holder for Mr.V.D.Vyas

O R D E R

PER HON'BLE MR.GOPAL KRISHNA, VICE CHAIRMAN

Applicant, Mam Chand 'N', has filed this application under Section 19 of the Administrative Tribunals Act, 1985, in which he has prayed that the order dated 6.9.95, at Annexure A-1, by which his name from the panel of Goods Driver stands deleted, may be quashed with all consequential benefits.

2. We have heard the learned counsel for the parties and have gone through the records of the case carefully.

3. The facts of the case are that the applicant was initially appointed on the post of Loco Cleaner at Rewari on 22.3.74. He was promoted to the post of Fireman Diesel Assistant in various grades. He became Shunter in 1986. Thereafter, he was promoted to the post of Goods Driver scale Rs.1350-2200 on ad hoc basis in 1994 and he continues to serve as a Goods Driver till date. The respondents organised a selection for the post of Goods Driver scale Rs.1350-2200. The selection consisted of written and viva-voce tests. The applicant cleared the written and the viva-voce tests. He was then empanelled for appointment to the post of Goods Driver. Subsequently, a screening was conducted and as a result of screening his name was not included in the fresh panel, at Annexure A-1. The respondents' case is that as a result of a further screening conducted in terms of the General Manager, Northern

Railway's instructions, incorporated in Annexure R-2 dated 4.4.84, the applicant was found unsuitable for inclusion in the selection panel and, therefore, his name was deleted while drawing up the panel at Annexure A-1 dated 6.9.95. The case of the applicant is that under the rules no such screening, as provided in Annexure R-2, 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. The learned counsel for the applicant has produced a copy of an order passed by a Division Bench of this Tribunal in OA 447/95, decided on 10.9.97 (Hari Ram v. Union of India and others). The aforesaid order has been taken on the record of this case. Pursuant to the aforesaid order of the Tribunal, the respondents conducted a viva-voce test on 26.11.97, the result of which has been produced on behalf of the respondents. The result shows that the applicant has been adjudged suitable for the post of Goods Driver.

5. In the result, we direct respondents No.1, 2 and 3 to grant promotion to the applicant to the post of Goods Driver from the date from which person junior to him has been granted promotion with consequential benefits. The OA stands disposed of accordingly. No order as to costs.

(GOPAL SINGH)
ADM.MEMBER

(GOPAL KRISHNA)
VICE CHAIRMAN

VK

Part II and III destroyed
in my presence on 22-3-2004
under the supervision of
section officer ( ) as per
order dated 22/12/2003

Section officer (Record)