

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JODHPUR BENCH, JODHPUR.

O.A. No.138/95

Date of Order: 9.10.1998

Lal Chand s/o Shri Gorakharam/o Plot No.72, Baba Ramdeo Bhil Colony, Masooria, Jodhpur, presently working as Shade Messenger (Class 'D') in the office of Senior D.M.E. (Diesel), Bhagat ki Kothi, Jodhpur (Rajasthan).

... Applicant

VERSUS

1. Union of India through the General Manager, Northern Railway, Baroda House, New Delhi.
2. Divisional Railway Manager, Northern Railway, Jodhpur Division, Jodhpur.
3. Divisional Personnel Officer, Northern Railway, Jodhpur Division, Jodhpur.
4. Shri Bhagwan Singh Meena, Clerk, c/o General Foreman Diesel Shade, Bhagat ki Kothi, Northern Railway, Jodhpur.

... Respondents

Mr. S.K. Malik, Counsel for the applicant.

Mr. R.K. Soni, Counsel for the official respondents Nos. 1 to 3.

Mr. J.K. Kaushik, Counsel for the respondent No.4.

CORAM:

Hon'ble Mr. A.K. Misra, Judicial Member

Hon'ble Mr. Gopal Singh, Administrative Member

O R D E R

Per Hon'ble Mr. Gopal Singh

Applicant, Lal Chand, has filed this application under Section 19 of the Administrative Tribunals Act, 1985, praying for setting aside the impugned orders dated 27.1.1995 (Annx. A/1) and 28.3.1995 (Annx. A/2) and for issuing a direction to the official respondents for preparing a fresh panel after

*Gopal Singh*

(12)

considering the name of the applicant in accordance with the rules.

2. Applicant's case is that he joined the Railways as group D employee on 6.12.1980. The official respondents had organised a selection test for the post of Clerk against 33 $\frac{1}{3}$ % quota reserved for group D employees of the department in terms of their letter dated 3.8.1994 (Annx. A/3). The applicant had appeared in the said test held on 26.11.1994 and was declared successful in the written test. He, however, could not pass the viva voce test and, therefore, his name does not figure in the panel declared by the official respondents vide their letter dated 27.1.1995 (Annx. A/1). The contention of the applicant is that official respondents letter dated 3.8.1994 (Annx. A/3) prescribes minimum three years of service in group D post as an eligibility condition to appear in the selection test for the post of Clerk. He has further asserted that the respondent No.4, namely Shri Bhagwan Singh Meena, had not completed the required three years of service to be eligible to take the said test but he appeared in the said test and was finally selected as his name appears in the result declared by the official respondents vide their letter dated 27.1.1995 (Annx. A/1). The applicant had made representations in this regard to the official respondents and the promotion order of the respondent No. 4 was kept in abeyance vide the official respondents letter dated 31.1.1995. After considering the case, the promotion order of respondent No.4 was released vide the official respondents letter dated 28.3.1995. Aggrieved by this action of the official respondents, the applicant has approached this Tribunal.

3. Notices were issued to the respondents and they have filed their reply.

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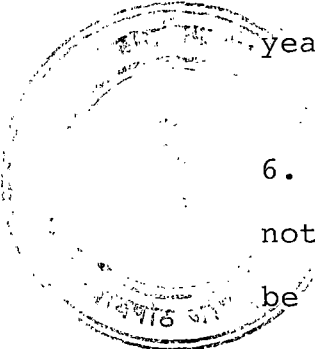
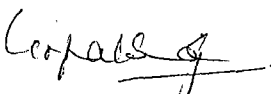
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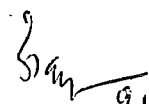
4. We have heard the learned counsel for the parties and perused the record of the case.

5. It has been contended by the respondents that in terms of para 189 (4) (ii) of I.R.E.M. Vol.I, the condition of three years service as group D employee does not apply to SC/ST candidates for being eligible to take the test for the post of Clerk, and as such the respondent No.4 being a ST candidate was eligible to take the test though he had not completed three years of service as a group D employee.

6. In view of the rules position as explained above, we do not find any merit in this application and the same deserves to be dismissed and is hereby dismissed.

7. Parties are left to bear their own costs.

  
  
(Gopal Singh)  
Administrative Member

  
9.10.98  
(A.K. Misra)  
Judicial Member

 Aviator/


Receipts  
DKaur  
26/10/98

Copy received  
26/10/98

Copy of order  
sent to Sh S. K. Malik Adv  
by Regd AD vide No 19116/1926  
dt. 29-10-98

he  
28/10/98

Part II and III destroyed  
in my presence on 4/11/98  
under the supervision of  
section officer as per  
order dated 20/12/96

  
Section officer (Record)