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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JODHPUR BENCH, JODHPUR.

O.A. No.524/95

Date of Order:12.11.1998

Narain Singh s/o Shri Bhup Singh, r/o Vill - Tikri, Distt. Gurgaon (Haryana), at present employed on the post of Shunter in Loco Shed (Meter Gauge), Sarai Rohilla, Delhi Northern Railway.

... 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. Loco Foreman, Loco Shed (Meter Gauge), Sarai Rohilla, Delhi.

... Respondents

Mr. J.K. Kaushik, Counsel for the applicant.

Mr. R.K. Soni, Counsel for the respondents.

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, Narain Singh, has filed this application under Section 19 of the Administrative Tribunals Act, 1985, praying for setting aside the impugned order dated 6.9.1995 (Annx. A/1) and for issuing a direction to the respondents that the applicant be allowed to all consequential benefits including extending the benefit available to him as per panel dated 7.6.1995 (Annx. A/2).

*Gopal Singh*

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2. Applicant's case is that he has been working on the post of Goods Driver on ad hoc basis since 1993. He appeared in the regular selection for the post of Goods Driver and on the basis of the result of written test and viva voce, his name was placed on the panel dated 7.6.1995 (Annx. A/2). However, in a subsequent panel dated 6.9.1995 (Annx. A/1), the name of the applicant was deleted on the ground that as a result of further screening held in terms of General Manager, Northern Railway's instructions, communicated by letter dated 4.4.1984, he was not found suitable for inclusion in the panel. Feeling aggrieved by this action of the respondents, the applicant has approached this Tribunal through the present O.A.

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

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

5. Northern Railway's Headquarters letter dated 4.4.1984 came under scrutiny before this Bench earlier vide O.A. No.394/95. While disposing of the said O.A. by order dated 9.9.1997, this Tribunal had observed as under:

"5. The respondents were directed to produce the records relating to the screening of the candidates in terms of Ann.R-5 dated 4.4.84. The records were produced before us and these have been perused by us. The learned counsel for the applicants stated during the arguments that apart from the legality of the screening in terms of Ann.R-5, which has been questioned by the applicants, in fact no proper screening, even as per Ann.R-5, has been conducted by the respondents. In terms of para-3 of Ann.R-5 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

*Legalising*

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 a result of the screening of the DSO and his findings thereafter that the names of the applicants have 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 applicants' 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-5, to conduct a proper screening in accordance with the terms and conditions laid down in Ann.R-5. 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-5. The very purpose of screening prescribed vide Ann.R-5 has been defeated when it has not been conducted by a committee that has been prescribed in Ann.R-5 and also particularly when the medical officer is not included in the committee which was to screen the officials. Therefore, exclusion of the names of the applicants 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.


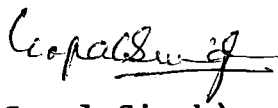
6. In the circumstances of the present case, we direct that the respondents shall conduct a fresh screening, through a committee consisting of the officers mentioned in para-3 of Ann.R-5, within a period of one month from the date of receipt of a copy of this order. The screening should be conducted strictly in accordance with the instructions contained in Ann.R-5. If the applicants are found suitable on the basis of such screening, they would be entitled to inclusion of their names in Ann.A-1 dated 6.9.95. The applicants have 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 applicants are found suitable for promotion on the basis of the result of the screening to be conducted in accordance with the directions given above, the applicants shall be granted promotion to the post of Goods Driver from the date from which person junior to them has been granted promotion."

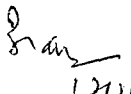
*Co-pal Singh*

6. We do not find any strong reason to deviate from the stand already taken by this Tribunal in O.A. No.394/95.

7. The O.A. is accordingly disposed of with the direction that the respondents shall conduct a fresh screening, through a committee consisting of the officers mentioned in letter dated 4.4.1984, 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 letter dated 4.4.1984. If the applicant is found suitable on the basis of such screening, he would be entitled to inclusion of his name in Annexure A/1 dated 6.9.1995. 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 has been granted promotion.

8. Parties are left to bear their own costs.

  
  
(Gopal Singh)  
Administrative Member

  
12/11/98  
(A.K. Misra)  
Judicial Member

Aviator/

Received copy  
JMS  
18/11/98

RCOM  
21/8/11/98  
CBA

Part II and III destroyed  
in my presence on 24-06  
under the supervision of  
section officer (J) as per  
order dated 28/2-06

Section officer (Record)