

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JODHPUR BENCH: JODHPUR.

O.A. No.186/96

Date of Order: 7.10.1998

Kistura Ram s/o Shri Teja Ram, r/o Quarter No.E-36/A, Railway Wireless Colony, Jodhpur and at present working to the post of Helper Khallasi in Railway Wireless office, SNT Branch under DST, Jodhpur.

... Applicant

VERSUS

1. Union of India through the General Manager, Northern Railway, Baroda House, New Delhi.
2. The Divisional Signal Telecom Engineer, Northern Railway, Jodhpur Division, Jodhpur.
3. The Divisional Personnel Officer, Northern Railway, Jodhpur Division, Jodhpur.
4. Shri Nand Kishore, Helper Khallasi, Office of Signal & Telecom Engineer, Northern Railway, Jodhpur Division, Jodhpur.
5. Shri Kishna Ram, Helper Khallasi, in the Office of Signal & Telecom Engineer, Northern Railway, Jodhpur Division, Jodhpur.

... Respondents

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

Mr. R.K. Soni, Counsel for the respondents No. 1 to 3.

Mr. Vijay Mehta, Counsel for the respondent No.4.

None present for respondent No.5.

CORAM:

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

Hon'ble Mr. Gopal Singh, Administrative Member

ORDER

Per Hon'ble Mr. Gopal Singh

Applicant, Kistura Ram, has filed this application

Gopal Singh

under Section 19 of the Administrative Tribunals Act, 1985, praying for setting aside the impugned order dated 15.5.1996 (Annx. A/1) wherein the respondent No. 4 (Shri Nand Kishore) and the respondent No. 5 (Shri Kishna Ram) were called for taking the trade test for the post of Wireless Mechanic/Maintainer Grade III scale 950-1500 and for issuing a direction to the official respondents to promote the applicant on the said vacant post as he had already qualified the trade test vide order dated 15/17.1.1996 (Annx. A/4) with all consequential benefits. The applicant has also prayed by way of interim relief for a direction to the official respondents not to finalise the trade test proposed to be conducted in pursuance of impugned order dated 15.5.1996 (Annx. A/1).

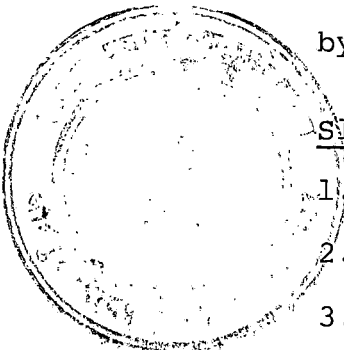
2. By an order dated 23.5.1996, this Tribunal had issued a direction to the official respondents that in case the trade test for the post of Wireless Mechanic/Maintainer is held in pursuance of the impugned order dated 15.5.1996, they shall not declare the result.

3. Undisputed facts of the case are that the applicant Kistura Ram, respondent No.4 Shri Nand Kishore and respondent No.5 Shri Kishna Ram are placed on the seniority list published by the respondents vide their letter dated 18.11.1994 as under:

<u>Sl. No.</u>	<u>Sl. No. of the Seniority list</u>	<u>Name</u>
1.	38	Nand Kishore
2.	55	Kishna Ram
3.	56	Kistura Ram

Thus, the applicant is junior to the respondents Nos. 4 & 5 against whom he is seeking relief. The respondent No. 4 Shri

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Nand Kishore was called upon to take the test on 11.7.1995 but he failed. Thereafter, Shri Kishna Ram was trade tested on 12.9.1995 and he also failed. Subsequently, the applicant was trade tested on 15.11.1995 and he was declared successful vide official respondents letter dated 15/17.1.1996. As per Recruitment Rules equal number of candidates are to be trade tested for filling up the post and since there was only one post available to be filled up, candidates as mentioned above were trade tested one by one. First two candidates, the respondents Nos. 4 & 5 could not pass the trade test and the applicant was finally declared successful in the trade test. The applicant, however, could not be promoted against the said vacant post as respondent No. 5 challenged that selection and got a direction from this Tribunal to the official respondents to permit respondent No. 5 to appear for the trade test. The official respondents had organised another trade test on dated 30.5.1996 for Shri Nand Kishore and a supplementary trade test on dated 20/28.10.1996 for Shri Kishan Ram. On an application by the applicant, the official respondents were directed not to declare the result of the test held on 30.5.1996 in pursuance of official respondents letter dated 15.5.1996 (Annx. A/1), as has been mentioned above.

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

5. To deal with the controversy in hand effectively and correctly, the official respondents were directed to bring for the perusal of the Tribunal file relating to the trade test as also result of the trade test held on 30.5.1996 and 20/28.10.1996. In pursuance of this direction, the learned counsel for the official respondents had submitted two sealed

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envelopes said to contain the result of Shri Nand Kishore, respondent No.4 and Shri Kishna Ram, respondent No.5, respectively. These sealed covers envelopes were opened and it was found that Shri Nand Kishore, respondent No.4, had passed the trade test held on 30.5.1996 and Shri Kishna Ram, respondent No.5, had failed in the trade test held on 20/28.10.1996. Since the respondent No.5 had failed in the trade test, he is left with no cause of grievance against the applicant and the respondent No.4. Since in the initial selection the respondent No.4 was declared unsuccessful and subsequently the applicant had passed the trade test held on 15.11.1995 and further the respondent No.4 qualified the subsequent trade test held on 30.5.1996 against a different vacancy. It would be just and proper that the applicant who had passed the trade test held on 15.11.1995 should be appointed against that post and the respondent No. 4 could occupy the next vacant post.

6. In the circumstances, we find much force in the application and the same deserves to be allowed.

7. The O.A. is accordingly disposed of with the direction to the official respondents that the applicant should be appointed on the first vacant post of Wireless Mechanic/Maintainer on the basis the trade test held on dated 15.11.1995 and the respondent No. 4 would be appointed against the next available post on the basis of the result of the trade test held on 30.5.1996.

8. Parties are left to bear their own costs.

Gopal Singh
 (Gopal Singh)
 Administrative Member

A.K. Misra
 (A.K. Misra)
 Judicial Member

R/Copy
on 14/11
2010

RJ. 37
B/
22/10

Copy of envelope sent to
Sh vijay mehta Adv
Reqd AD vide no. 408
dt 15/10/98
me

Part II and III destroyed
in my presence on 4-4-06
under the supervision of
section officer (1) as per
order dated 29/2/06

Section officer (Record)