

(C) A

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
JODHPUR BENCH, JODHPUR.

Date of Decision: 25.6.98

OA 379/97

Sunil Joshi, Chief Signal Inspector (T), Northern Railway, Bikaner.

... Applicant

Versus

1. Union of India through General Manager, Northern Railway, Baroda House, New Delhi.
2. Divisional Railway Manager, Northern Railway, Bikaner.
3. Divisional Personnel Officer, Northern Railway, Bikaner.
4. Divisional Signal & Tele Communication Engineer, Northern Railway, Bikaner.

... Respondents

CORAM:

HON'BLE MR.JUSTICE K.M.AGARWAL, CHAIRMAN

HON'BLE MR.GOPAL SINGH, ADMINISTRATIVE MEMBER

For the Applicant

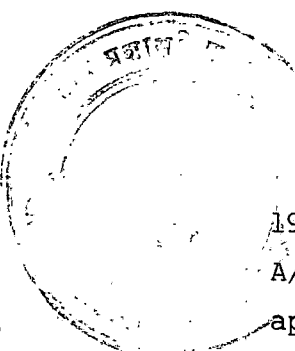
... Mr.N.K.Khandelwal

For the Respondents

... Mr.S.S.Vyas

O R D E R

PER HON'BLE MR.JUSTICE K.M.AGARWAL, CHAIRMAN.



By this application under Section 19 of the Administrative Tribunals Act, 1985, the applicant wants quashing of the charge-sheet dated 30.9.94 (Annexure A/1) and also wants a direction to the respondents to declare the result of the applicant with regard to Group 'B' Examination, held in 1994.

2. Briefly stated, the applicant held Group-C post with the respondents at Bikaner Division. On 20.8.94, he appeared in a written test held by the respondents for promotion to Group-B post (ASTE). He also appeared in a viva-voce test on 24.10.94 but his result was not declared because in the meanwhile, i.e. on 30.9.94, he was served with the impugned charge-sheet dated 30.9.94. Because of the delay in conclusion of the departmental enquiry, the applicant has filed this application for quashing the charge-sheet and in the alternative for giving him benefit of Paragraph-5 of the Railway Board's circular dated 21.1.93, in short RBE No.13/93.

3. It is not disputed before us that the name of the applicant does not appear, as accused, in the criminal case initiated by the CBI and which is said to be pending in a CBI Court at Delhi. It is also not disputed that the departmental enquiry initiated against the applicant pursuant to charge-sheet dated 30.9.94 (Annexure A/1) is still pending. Paragraph-5 of RBE No.13/93

Km

prescribes procedure for ad hoc promotion. It deals with cases where the disciplinary case/criminal prosecution against a railway servant is not concluded even after the expiry of two years from the date of the original selection/formation of suitability test. Since two years have expired from the date of the original selection/formation of the suitability test for Group-B post (ASTE), the applicant has made a prayer which is in effect the prayer for giving him benefit of the aforesaid Paragraph-5 of RBE No.13/93.

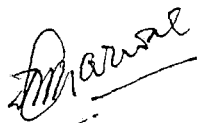
4. After hearing the learned counsel for the parties and perusing the record, we are of the view that this OA can be disposed of by directing the respondents to dispose of the disciplinary proceedings pursuant to charge-sheet dated 30.9.94 (Annexure A/1) within a period of six months from the date of receipt of a copy of this order, as far as possible. If for want of documents, which are said to be with the CBI, it is not possible to conclude the enquiry within the period specified, the respondents may approach the Tribunal with a suitable application for extension of time and as and when such an application is made, appropriate orders will be passed after hearing both the sides.

5. As earlier pointed out, after the viva-voce test held for Group-B post on 24.10.94, the panel of selected candidates was prepared and notified on 21.11.94. Admittedly, a period of more than two years has elapsed since the date of publication of the select list and, therefore, we are of the view that this case is squarely covered by the procedure laid down in Paragraph-5 of RBE No.13/93. Accordingly, we are of the view that the respondents deserve to be further commanded to consider the case of the applicant under Paragraph-5 of RBE No.13/93 and to give him such benefit as may be available to him if after consideration of his case under Paragraph-5 of the RBE No.13/93, he is found eligible for any such benefit as contemplated under the said paragraph.

6. For the foregoing reasons, this application partly succeeds and it is partly allowed. The respondents are directed;

- i) to dispose of the disciplinary proceedings pursuant to charge-sheet dated 30.9.94 (Annexure A/1) within a period of six months from the date of receipt of a copy of this order. They shall be at liberty to file an application for extension of time, in case it is considered necessary for conclusion of the disciplinary proceedings for one reason or the other, and
- ii) to consider the case of the applicant for ad hoc promotion in accordance with the provisions and the procedure laid down under Paragraph-5 of RBE No.13/93.

Accordingly, this application is hereby finally disposed of. No costs.


(K.M. AGARWAL)
CHAIRMAN

Her
by

Recd *SP* 26/4/98