

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH : JODHPUR

Date of order : 18.11.1998

O.A. No. 12/1997

Jitendra Singh son of Shri Pratap Singh Ji, by caste Rajput, aged about 35 years, resident of House No. 28, Section-7, Power House Road, Jodhpur - (Presently working as Raj Bhasha Sahayak Grade - I in the Office of D.R.M, Northern Railway, Jodhpur).

... Applicant.

v e r s u s

1. Union of India through the General Manager, Northern Railway, Baroda House, New Delhi.
2. General Manager (P) (CPO), Northern Railway, Baroda House, New Delhi.
3. Harish Chandra Srivastava, Raj Bhasha Sahayak Grade-I, C/o. Chief Works Manager, Loco Work Shop, Charbhag, Lucknow.

... Respondents.

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

Mr. V.D. Vyas, Counsel for the respondent No. 1 and 2.

None present for the respondent No. 3.

CORAM:

Hon'ble Mr. Gopal Krishna, Vice Chairman.

Hon'ble Mr. Gopal Singh, Administrative Member.

O R D E R

(Per Hon'ble Mr. Gopal Krishna)

Applicant, Jitendra Singh, has filed this application under Section 19 of the Administrative Tribunals Act, 1985, mainly assailing the impugned order at Annexure A/1 by which the second supplementary test was ~~Conducted~~ held on 10.1.97 at 11.00 a.m. in respect of the respondent

No. 3, namely Shri Harish Chandra Srivastava.

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

3. Applicant while working on the post of Raj Bhasha Sahayak Grade-I in the scale of Rs. 1600-2660 appeared in the selection / written test held for the post of Hindi Superintendent grade Rs. 2000-3200 on 20.4.1996. The result of the written test was declared on 28.5.96 vide Annexure A/3. Thereafter, viva voce test was conducted by the respondents on 2.7.1996 and after the viva voce test, respondents declared a panel of seven persons on 13.11.96. Applicant's contention is that after the first written test, respondents should not have held a second supplementary test for a left out candidate, namely Shri Harish Chandra Srivastava, respondents No. 3, beyond the prescribed period of six months in terms of the relevant provisions. The learned counsel for the applicant drew our attention to para 223 of the Indian Railway Establishment Manual - Volume I (Revised edition - 1989), which provides that "the employee will not be eligible to be considered if he returns to duty more than six months after the date of the first selection." Our attention was also drawn by the learned counsel for the applicant to the Railway Board Circular dated 4.1.1963 at Annexure A/6 and to another Circular of the Railway Board dated 22.6.1967 and on the basis of the provisions therein, it has been argued that in no case, the respondent No. 3 should have been subjected to a second supplementary test on 10.1.1997 after the expiry of the period of six months of the first examination. It is borne out by the representation of the respondent No. 3 at Annexure R/1 dated 4.9.96 that he remained under the treatment of a Railway Doctor from 18.4.96 to 22.4.96 and thereafter, from 17.5.96 to 4.7.96. It is an undisputed fact that the respondent No. 3 was senior to the applicant. He was called to appear in the written test held on 20.4.96, but he could not appear due to his sickness and in such a situation, a vacancy was kept unfilled. Thereafter, the representation of the respondent No. 3 was considered by the competent authority and he was allowed to appear in the second supplementary

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test held on 10.1.97 in terms of the provisions contained in the Railway Board Circular dated 31.12.1980 at Annexure R/3, which provides that a supplementary examination may be held if an employee who is unavoidably absent due to sickness and if such absence is covered by a medical certificate. It has been categorically stated by the respondents that the respondent No. 3 remained under the treatment of a Railway Doctor with effect from 17.6.96 and discharged on 20.6.96 and thereafter, he remained under the treatment of a private doctor from 20.6.96 to 28.6.96 and then he was sent to the Railway Doctor for obtaining the fitness certificate, but he had to remain under the treatment of the Railway Doctor from 30.6.96 to 4.7.96. The representations of the respondent No. 3 were considered by the competent authority and on merits of the case, he was permitted to appear in the second supplementary test in terms of the Railway Board Circular dated 31.12.1980 referred to above, wherein it is stated that "if any case comes to the Railway's notice, which has to be very rare, the C.P.O. should personally take a decision to hold the second supplementary examination on the merits of the case". As per the instructions contained in the aforesaid circular, the competent authority approved the holding of the second supplementary test in respect of the respondent No. 3. We do not find any infirmity, illegality or impropriety in the impugned action.

4. In the result, the present application is devoid of merits and it is hereby dismissed. No order as to costs.

Gopal Singh
(Gopal Singh)

Adm. Member

cvr.

Gopal Krishna
(Gopal Krishna)
Vice Chairman