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CENTRAL ADMINISTRATIVE TRIBUNAL  
JODHPUR BENCH, JODHPUR.

Date of Order : 10.4.2001

ORIGINAL APPLICATION NO. 248/1997.

Bindal Khan son of Shri Tara Khan, aged about 51 years resident of T-70C Loco Colony Merta Road, Northern Railway, at present employed on the post of Shunter in the office of Loco Furman, Merta Road, N. RLY.

... APPLICANT..

VERSUS

1. The Union of India through General Manager, Northern Railway, Baroda House, New Delhi.
2. Divisional Personnel Officer, Northern Railway, Jodhpur Division, Jodhpur.

... RESPONDENTS ..

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

Mr. S. S. vyas, counsel for the respondents.

CORAM

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

Hon'ble Mr. Gopal Singh, Administrative Member.

ORDER

( per Hon'ble Mr. Gopal Singh )

In this application under Section 19 of the Administrative Tribunals Act, 1985, applicant Bindal Khan has prayed for a direction to the respondents to interpolate the name of the applicant in impugned order dated 14.05.1997 ( Annexure A-1 ) and consider his candidature for promotion to the post of Goods Driver at par with his juniors with all consequential benefits.

2. Applicant's case is that he was initially appointed to the post of Cleaner on 17.05.1965 in the Northern Railway. In due course, he earned his further promotions and became Shunter w.e.f. 01.03.1993. The respondents

*Gopal Singh*

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Department had organised a selection for filling up 66 posts of Goods Driver vide letter dated 26.11.1996 ( Annexure A-5 ). Applicant's name also figured in the list of eligible candidates in this letter. The applicant had appeared in the selection, but he could not find place in the list of successful candidates. The respondents had subsequently organised another selection vide their letter dated 14.05.1997 ( Annexure A-1 ) for filling up 43 posts of Goods Driver. Applicant's name, however, did not figure in the list of eligible candidates indicated in this letter. The respondents had finalised the selection. Feeling aggrieved the applicant filed this O.A.

3. By our interim order dated 01.08.1997, the respondents were directed to mention the condition that promotion made in pursuance of Annexure A-1 shall be subject to the result of this O.A.

4. In the counter, it has been stated by the respondents that Shunters belong to the Feeder category for promotion to the post of Goods Driver. Since, sufficient number of Shunters were not available, all available Shunters were called for the written test and only 23 Shunters were finally found successful in the selection. The applicant had also appeared in the said selection but could not qualify. Since, requisite number of Shunters could not qualify in selection, it was decided that in continuation of the current process of selection to the post of Goods Driver, First Fireman/Diesel Asst. who fulfil the condition laid down in Railway Boards

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letter dated 01.05.1996 should be called for selection. Accordingly, 129 Fireman/Diesel Assts. were called for written test and a second Panel was prepared. It has been contended by the respondents that selection for the post of Goods Driver from amongst Fireman/Diesel Assts. was in continuation of earlier selection made from amongst Shunters. The applicant had appeared in earlier selection and had failed, therefore, he was not called in the subsequent selection. It has, therefore, been averred by the respondents that the application is devoid of any merit and is liable to be dismissed.

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

6. It is not disputed that the post of Goods Driver is a selection post and is to be filled up by a positive act of selection. It is also not disputed that Shunters belongs to the Feeder category for promotion to the post of Goods Driver. There was in all 66 posts of Goods Driver to be filled in first<sup>by</sup> selection from amongst the Shunters, only 23 Shunters could be promoted as Goods Driver and the balance 43 posts were proposed to be filled up by selection from amongst First Fireman/Diesel Assts. It has been contended by the respondents that selection from amongst Fireman/Diesel Assts. was not a fresh selection. It was in continuation of earlier selection in which the applicant had appeared and failed. The contention of the applicant that, he should also have been called for subsequent selection held in pursuance to letter dated 14.05.1997 ( Annexure A-1 ) does not appear tenable, since, none of the Shunters who had failed in the first selection were called for

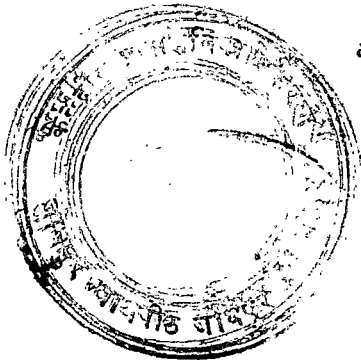


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in the second selection held in pursuance of letter  
and  
dated 14.05.1997/ Secondly, the selection in pursuance  
to letter dated 14.05.1997 was only held from amongst  
Fireman/Diesel Assts., in terms of Railway Board's letter  
dated 01.05.1996.

7. In the light of above discussion, we do not find  
any irregularity or infirmity in respondents action in  
not inviting the applicant for the selection held in  
pursuance to letter dated 14.05.1997 ( Annexure A-1 ).  
Thus, in our opinion, the application <sup>is</sup> devoid of any  
merit and deserves dismissal.

8. The O.A. is accordingly dismissed with no order  
as to costs.



*Gopal Singh*  
( GOPAL SINGH )  
Admn. Member

*A. K. Misra*  
10/11/2001  
( A. K. MISRA )  
Judl. Member

R. C. Clev  
D. C. Clev  
12/11/71

R/COPY  
on 16/4  
[Signature]

Part II and IV destroyed  
in my presence on 28-327  
under the supervision of  
secretary [Signature] as per  
order dated 29/12/22

[Signature]  
Senior Officer (Record) 2