

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
JODHPUR BENCH, JODHPUR

O.A. No.312/98

Date of Order : 22.3.2001

Shri Manu Kumar S/o Shri Shankerji, Aged about 38 years  
R/o Quarter No.L-359A ABU Road (Rajasthan) Presently  
Working On The Post Of Electric Khalasi In The Office  
Of Senior D.M.E. Diesel, Abu Road District Sirohi  
(Rajasthan) .

Applicant.

VERSUS

1. Union of India the General Manager Western Railway,  
Church Gate, Mumbai
2. Divisional Railway Manager, Western Railway,  
Ajmer (Rajasthan) .
3. Assistant Personnel Officer Western  
Railway, Ajmer
4. Shri Bheru Singh S/o Shri Takhat Singh  
(Armature Winder)  
C/o Senior Electric Foreman Diesel Shed  
Abu Road, District Sirohi

Respondents.

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

Mr. S.S. Vyas, counsel for the respondents No.1 to 3

Mr. J.K. Kaushik, counsel for the respondents No.4.

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GRAM

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

Hon'ble Mr. Gopal Singh Administrative Member.

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ORDER

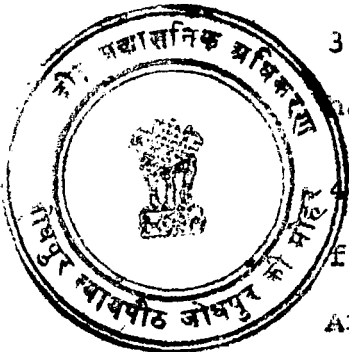
(per Hon'ble Mr. A.K. Misra)

1. The applicant had moved this OA with the prayer that the impugned orders dated 5.3.98 (Annexure A-1), 23.7.98(Annexure A-2) and 20.8.98(Annexure A-3), be quashed and the respondents be directed to conduct a fresh trade test for the post of Armature Winder Grade-III in accordance with seniority and vacancy position. If the applicant is found suitable, he be directed to be promoted accordingly with all consequential benefits.

2. Notice of the OA was given to the respondents who have filed the reply to which no rejoinder was filed by the applicant.

3. We have heard the learned counsel for the parties and have gone through the case file.

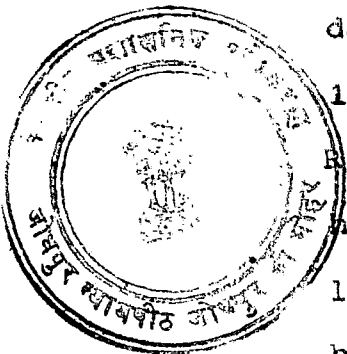
4. It is alleged by the applicant that there was a notification for conducting the trade test for the post of Armature Winder G-I, II and III. The applicant was shown eligible for the post of Armature Winder G-III, but no date was fixed for trade test and no trade test was conducted. The trade test was conducted on 6.11.97 for which the applicant had no intimation. The applicant was declared fail whereas he was only absent. It is also alleged by the applicant that subsequently another trade test was conducted in the year 1998 and the respondent No.4 was selected and appointed in the said trade test. It is also alleged by the applicant that the trade test should have been conducted within six months from the notified date but the applicant has not been given any chance and



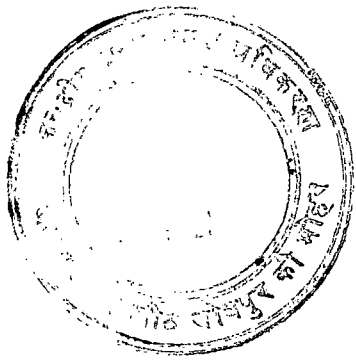
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consequently, the selection of respondent No.4 deserved to be quashed.

5. The respondents have filed their reply in which it is stated that in pursuance of the Notification dated 16.6.97, the applicant applied for the trade test and was found eligible to appear in the same for the post of Armature Winder Grade-III. The eligibility list of the candidates was issued on 31.7.97. In the eligibility list applicant figures at No.1 and name of Abdul Sattar was shown in the waiting list. The list was communicated to the Electrical Foremen (diesel), Abu Road but applicant proceeded on leave w.e.f. 4.8.97 for 15 days and continue to remain absent from duties w.e.f. 17.8.97 to 5.4.98, <sup>while</sup> ~~the~~ the applicant was on leave, a Registered Letter was issued to him on 8.8.97 informing him that his name has been placed in the eligibility list for the trade test and he should immediately note the same by reporting to the office. But the said letter returned undelivered due to non-availability of the applicant. It is also alleged by the respondents that thereafter on 29.9.97 a letter was again issue to the applicant for resuming the duty immediately within 7 days otherwise next person in the list, would be sent for trade test. Since the applicant was not available at his residence, the communication was pasted on his door in presence of three witnesses. Both these letters, as mentioned above, are Annexures R-2 and R-3 respectively. When the applicant did not report as per the communication the name of Shri Abdul Sattar was sent for the trade test which was, held on 7.11.97 but Shri Abdul Sattar could not pass the test, therefore, next person Shri Bheru Singh was called.



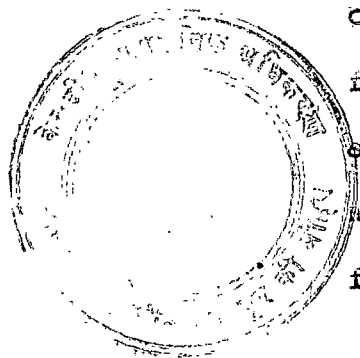
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for the trade test as per the order dated 5.3.98 and the trade test was conducted on 4.5.98. Shri Bheru Singh qualified the trade test and was appointed on the post of Armature Winder Grade-III vide order dated 20.08.98. In view of these facts the applicant is not entitled to any relief as he intentionally avoided appearing in the trade test.

6. From the foregoing facts, it appears that applicant was eligible to appear in the trade test but because of his continuous absence from duty and in spite of all the efforts on the part of the respondents to inform the applicant about the trade test, the applicant did not appear in the same. The applicant had initially proceeded on leave for 15 days. If, on the expiry of leave, had the applicant reported on duties, he would have been intimated about the date of the trade test. The applicant intentionally did not report on duty on expiry of leave but remained not available even at his residence. Due to non-availability of the applicant and in view of return~~ing~~ of registered letter unserved, the administration had taken a precaution to take steps to notify the applicant in respect of the trade test. But, that too, proved to be a futile exercise because the applicant was not even available at his residence on 30.09.1997 and therefore, a letter was pasted at his residence. Thereafter, also, the applicant had not reported on duties till 5.4.98. In the meantime, third person was called for the trade test, therefore, the applicant can not be permitted to advance his grievance that he was not intimated by the department in respect of trade test. All what was expected of the respondents was, to take steps to intimate trade test the applicant in respect of the date of the trade test which they have

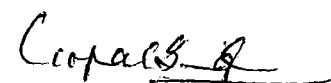
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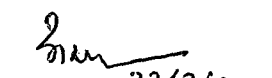


taken but it was the misfortune of the applicant that he could not be intimated because of his continuous absence from duties. Therefore, he cannot come round and say, ~~that~~ after the respondent No.4 was appointed on the post of Ar-mature Winder Grade-III, <sup>that</sup> ~~that~~ his claim has been ignored for promotion and he was not informed about the trade test.

7. It was argued by the learned counsel for the applicant that although, the applicant was absent and did not appear in the examination yet he has been shown as 'failed' in the communication dated 5.3.98 (Annexure-A-1). But, this argument does not help the applicant. Since the applicant admittedly did not appear in the examination, therefore, the note 'Fail' seems to be a clerical mistake and the applicant can not be allowed to make capital, out of it. In our opinion, once the name of the applicant was entered in the eligibility list of trade test for the post in question, the applicant should have been vigilant about his rights. On the contrary his prolonged absence of nearly 8 months has resulted into respondent No.4 being considered. We do not see any cogent reason to disturb the selection of respondent No.4 or <sup>for</sup> directing the respondents to allow the applicant to under-take the selection process afresh now.

8. In view of the above discussions, the applicant is not entitled to any relief whatsoever. The OA deserves to be dismissed and is hereby dismissed. No orders as to cost.

  
(Gopal Singh)  
Adm. Member

  
22/3/2001  
(A.K. Misra)  
Judl. Member

Recd  
DTM  
3/4/01

Recd  
Blanton  
3/4/01

R/Car  
on 3/4  
2/1

Part II and IN destroyed  
in my presence on 26 3.07  
under the supervision of  
section officer J as per  
order dated 19.12.07

Section officer (Record)