

Date of order : 26.06.2000

1. O.A. No. 15/98

Shiv Dayal Singh son of Shri Ram Swaroop, aged about 45 years, resident of Qtr. No. E/20 Mavli Jn., Distt. Udaipur, at present employed on the post of Permanent Way Inspector, Khamli Ghat, Distt. Rajsamand, Western Railway.

... Applicant.

v e r s u s

1. The Union of India through General Manager, Western Railway, Ajmer Division, Ajmer.
2. Divisional Railway Manager, Western Railway, Ajmer Division, Ajmer.
3. Shri Ram Sewak Verma, PWI, Mavli Jn., Distt. Udaipur, Western Railway.
4. Shri Ramesh Babu, PWI - Survey and Construction, Rani, Phalna, Western Railway.
5. Shri Mishri Lal Sharma, PWI-Sendra, Distt. Pali, Western Railway.
6. Shri Ajay Nishal, PWI - Gandhi Dham (MG), Western Railway.

... Respondents.

2. O.A. No. 106/98

Mr. Y.C. Pathak son of Shri R.C. Pathak aged about 43 years, resident of Qtr. No. M/60 Khamblighat, Distt. Rajsamandh, at present employed on the post of Permanent Way Inspector Gr. I (Redesignated as Section Engineer (PW), Mavli Jn., Western Railway.

... Applicant.

v e r s u s

1. The Union of India through General Manager, Western Railway, Church Gate, Bombay.
2. Divisional Railway Manager, Western Railway, Ajmer Division, Ajmer.



3. Shri Ram Sewak Verma, PWI (Section Engineer (PW)), Mavli Jn., Distt. Udaipur.
4. Shri Ramesh Babu, PWI (Section Engineer (PW)), Survey and Construction, Rani, Phalna, Western Railway.
5. Shri Mishri Lal Sharma, PWI (Section Engineer (PW)), Sendra, Distt. Pali, Western Railway.
6. Shri Ajay Nishal, PWI (Section Engineer (PW)), Gandhi Dham (MG), Western Railway.

... Respondents.

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

Mr. S.S. Vyas, Counsel for the official respondents.

None present for the respondents Nos. 3 to 6.

CORAM:

Hon'ble Mr. Justice B.S. Raikote, Vice Chairman.

Hon'ble Mr. Gopal Singh, Administrative Member.

O R D E R

(Per Hon'ble Mr. Justice B.S. Raikote)



Applicants, Shiv Dayal Singh in OA No. 15/98 and Y.C. Pathak in OA No. 106/98 have made a common grievance regarding their non-selection for promotion to the post of Permanent Way Inspector (PWI, for short) Grade-I, on the basis of the common facts. Hence we are disposing of both these applications by this common order.

2. It is not in dispute that the applicants had qualified in the written test for the post of PWI Grade-I, but they have not passed in the viva voce and accordingly they were not empanelled. But the contention is that they were already working as PWI Grade-I on the basis of some ad hoc promotions. Their services on that ad hoc promotion could have been considered in view of the Railway Board's circular No. 831-E/63/2/E-4 dated 19.3.76. But on the other hand, the learned counsel appearing for the respondents contended that the post in question is one belonging to Safety category and this Tribunal had already held in judgement/order dated 8.9.97 in OA No. 22/1997 (Manu Kumar vs. Union of India & Ors.) that the said circular does not apply to such safety category. Therefore, there are no merits in these applications.

3. Both from the pleadings and argumets of both the sides, we

find that the fact that the post in question belongs to the safety category is not disputed. Though the Railway Board's circular dated 19.3.76 has been upheld by Hon'ble the Supreme Court by holding that the Law Assistants working on ad hoc basis could be entitled to the benefit of that circular, in SLP (C) 9866/93 R.C. Srivastava vs. Union of India & Ors. vide its judgement dated 3.11.95, but this Tribunal has distinguished the said judgement and held that the said circular dated 19.3.76 would not apply to a post of safety category. Therefore, in view of the consistent law declared by this Tribunal that such circular would not apply to a post of safety category, we hold that it does not apply to the present post also, which admittedly belong to a safety category. In this view of the matter, we do not find any merit in these applications and hence, we pass the order as under:-

4. The O.As No. 15/98 and 106/98 are dismissed. But in the circumstances, without costs.



Sd/-  
(GOPAL SINGH)  
ADM. MEMBER

Sd/-  
(B.S. RAIKOTE)  
VICE CHAIRMAN

cvr.

प्रमाणित सही प्रतिलिपि  
३३/०२/२०००  
अनुभाग अधिकारी (न्यायिक)  
केन्द्रीय प्रशासनिक अधिकरण  
जोबपुर

Part II and III destroyed  
in my presence on 30-10-06  
under the supervision of  
section officer (1) as per  
order dated 23-10-06

PS/ Section officer (Record)

R/ COPY  
m3016100  
20/10/06

RRR On 10-11-06  
D. K. S. S. S.  
30/10/06