

6

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JODHPUR BENCH,  
J O D H P U R

DATE OF ORDER : 22.7.1999

O.A.NO. 56/1999

Mohan Lal S/o Shri Bhaga Ram aged about 43 years R/o Vill. Digadi Post Jodhpur, Dist. Jodhpur (Raj), presently working on the post of Welder-II, in the Office of General Foreman, Diesel Shade, Northern Railway, Bhagat Ki Kothi, Jodhpur.

.....Applicant.

VS.

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

.....Respondents.

.....  
Mr. S.K.Malik, Counsel for the applicant.  
Mr. Kamal Dave, Counsel for the respondents.

CORAM :

HON'BLE MR. A.K.MISRA, JUDICIAL MEMBER

HON'BLE MR. GOPAL SINGH, ADMINISTRATIVE MEMBER

.....  
PER MR. A.K.MISRA :

The applicant has filed this application with the prayer that the orders dated 1.12.1998, Annex.A/1, 10.2.1999, Annex.A/2 and 18.1.1999, Annex.A/3, be quashed and the respondents be directed to prepare the eligibility list strictly in accordance with Para 140 of the Indian Railway Establishment Manual (for short "IREM"). The applicant has further prayed that the respondents be directed to allow the applicant in the selection for the post of Diesel Mechanic Chargeman 'B' and if selected the applicant should be given appointment to the said post with consequential benefits.

2. Notice of the O.A. was issued to the respondents who have filed the reply. It is alleged by the respondents that applicant's case is not covered by Para 140 of I.R.E.M. The applicant had opted for different line in 1991 and was accordingly promoted as Welder-III and that line has its independent promotional channel. Applicant is ~~neither~~ a diesel mechanic <sup>Mech</sup> ~~nor working in Diesel wing~~, therefore, he is not eligible to appear for selection for the post of Diesel Mechanic Chargeman 'B'. The O.A. deserves to be dismissed.

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

4. The learned counsel for the parties have elaborated their arguments on the lines of their pleadings. It was argued by the learned counsel for the applicant that in I.R.E.M., there is no provision like Diesel Mechanic Foreman or Electric Mechanic Foreman, as per Para 140. The candidate who fulfills the requisite qualifications is entitled to appear in the selection test of Diesel Mechanic Chargeman 'B' irrespective of his branch. Since the applicant is a skilled grade worker and fulfills all the requisite qualifications, as mentioned in the Para, therefore, respondents refusal to allow him to appear in the said selection process, is illegal. The learned counsel for the respondents has argued that applicant after having opted a different line, was promoted as Welder Grade - III on which post he is still working. His working on the skilled grade post does not entitle him to appear in the said selection process. The applicant has his promotional channel as Welder Grade - II and Welder Grade - I and, therefore, he will have to wait for his promotional turn in his own line. Para 140 of the I.R.E.M. is not applicable in his case.

30/11



5. We have considered the rival arguments. For appreciating the rival arguments, Para 140 of the I.R.E.M. is quoted below :-

"140.(1) 75% of the vacancies in the category of Chargeman 'B' in scale Rs. 1400-2300 in Mech. & Elec. Eng., Deptts. & in the cadre of Draftsmen in these Departments will be filled by induction of Apprentice Mechanics as under :-

- (i) 50% from open market through Railway Recruitment Boards : and
- (ii) 25% from serving Matriculate employees with three years service in skilled grade(s) and below 45 years of age as Intermediate Apprentice Mechanics.
- (2) .....
- (3) .....
- (4) .....

From the pleadings of the parties, it is clear that applicant is working on the skilled post since 1991 after his selection as Welder Grade - III. The learned counsel for the respondents has not been able to point-out any other provision for selection of Chargeman 'B' relating to Diesel Mechanic side or Electrical side. Therefore, Para 140 of I.R.E.M. in our opinion applies in the instant case which clearly indicates that the person working for three years on the post bearing skilled grade, is entitled to appear for 25% quota for matriculate employees in service. The applicant is a matriculate. He is below 45 years of age and has been working in skilled grade since more than three years, therefore, he is entitled to appear in the selection test for the post of Diesel Mechanic Chargeman 'B'. No provision has been pointed-out to us which may indicate the basic qualification of Diesel Mechanic Chargeman 'B' so as to come to the conclusion that the candidate is required to be in that promotional line or should be in the Diesel Mechanic department. Therefore, the

874

a

arguments that the candidate should necessarily belong to the Diesel Mechanic side, is not acceptable.

6. The learned counsel for the applicant had argued that the notification in respect of the post in question issued by the Railway and consequent eligibility list, should be quashed but we do not feel any necessity of quashing either of the two. The applicant has in fact sought the relief of appearing in the examination, therefore, order rejecting his candidature is required to be set aside. The process already undertaken in respect of selection is required to be left un-disturbed.

7. From the foregoing discussion, we come to the conclusion that applicant fulfills all the three conditions as enumerated in Para 140 of I.R.E.M. for participating in the selection process of the post of Diesel Mechanic Chargeman 'B' and the respondents can be directed to organise a supplementary test for the same. Since the applicant has only come to challenge rejection of his candidature, therefore, no other similarly situated candidate can be provided with the same relief by cancelling the eligibility list.

8. After the arguments were concluded and file was kept reserved for orders, the learned counsel for the applicant presented before us a letter dated 14.7.1999 issued by the D.R.Ms office, Northern Railway, Jodhpur, which indicates that the viva voce test for the post in question in respect of two successful candidates is fixed for 26.7.1999 at 10.00 Hrs. Therefore, it will also be in the fitness of things that viva voce test be stayed till the applicant is allowed to appear in

2/11

6/10

the written test for the post. Viva Voce relating to successful candidates as declared earlier and the applicant if he comes out successful in the written test, can be held together.

9. In the result, the O.A. is partly accepted. The letter Annex.A/3 dated 28.1.1999 is hereby quashed. The prayer for quashing the letter dated 2.12.1998 (Annex.A/1) and eligibility list dated 10.2.1999 (Annex.A/2) is hereby rejected. The respondents are directed to conduct written supplementary test for the applicant in respect of the aforesaid post of Diesel Mechanic Charge man 'B' pay scale Rs. 5000-8000. It is further ordered that if the applicant is declared successful in the aforesaid supplementary written test held as directed above, then the viva voce test relating to the candidates declared successful earlier and the applicant, should be organised together and the final result be declared accordingly. The respondents are given one month's time to organise the supplementary written test. Till then, the respondents shall not go ahead with the process of taking viva voce test relating to the aforesaid post which is proposed to be held on 26th July, 1999, as per respondent's letter dated 14.7.1999 in respect of two candidates declared successful in written test as mentioned in this order.



10. Parties are left to bear their own costs.

Gopal Singh

(GOPAL SINGH)  
Adm. Member

8/7/99

(A.K.MISRA)  
Judl. Member

.....  
(mehta)

Copy Received by

ਸ਼੍ਰੀਮਤੀ ਸਿੰਘ

ਅ/ਸਿੰਘ

26.7.99

Rec'd CEM

Reed 2nd

26.7.99

✓

✓

✓