

I/9

**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH**

O.A.NO.250 OF 2003

December 16, 2004.

**CORAM : HON'BLE MR.KULDIP SINGH, VICE CHAIRMAN &
HON'BLE MR. G.R. PATWARDHAN, MEMBER (A).**

Girdhar Gopal Sharma S/o Shri Sampat Raj Ji Sharma, Aged about 29 years, Resident of 9/37, Fifth Puliya, Chopasani Housing Board, Jodhpur.

..... Applicant.

By: Ms. Kiran Tripathi, Advocate.

Versus

1. Union of India through General Manager, North West Railway, Jaipur.
2. The Chairman, Railway Recruitment Board, Ajmer (Raj).

By : Mr.Salil Trivedi, Advocate.

...Respondents.

ORDER (oral)

KULDIP SINGH, VC

The applicant in this O.A. has assailed an advertisement dated 28th June-04th July, 2003, (Annexure A-1), whereby the respondents have issued a Notification in the Employment News being No.1/03 (Centralised Gr.'D' Dated 13.6.2003. The applicant has prayed for quashing of this advertisement and has sought a direction to the respondents to appoint the applicant to

k

2/8 2/10

the post of Khalasi/Helper Grade I without conducting any examination on preferential basis.

2. The facts as alleged by the applicant are that he is an ITI Certificate Holder in the Fitter Trade. He was selected by the respondent no.4 for the post of Fitter Apprentice and he was sent for training vide order-dated 23.4.2001 (Annexure A-2). The name of the applicant appears at Sr.No.6 in the said order. The applicant is stated to have completed the training and passed the prescribed trade test conducted by the National Council for Vocation Training, held in November 2002 (Annexure A-3). It is further submitted that this training was given under the Apprentices Act, 1961 and the applicant was paid monthly stipend at the prescribed rates. It is further stated that the purpose of appointing persons and giving training to them is that they will be appointed in future in that trade and since the applicant has taken training in the Fitter Trade in respect of the Railways Coach Repairs and this training is not useful in any other place except Railways Service he should be appointed in Railways. The applicant had taken the training in respect of the Railway coach Repairs and this training is not useful except in Railway service and similarly training at the ITI is also not useful for Railways in comparison to the person who has taken such training for repair of railway coaches but vide the impugned advertisement the respondents have invited applications for appointment of Helper Khalasi Grade II and no reservation has



k

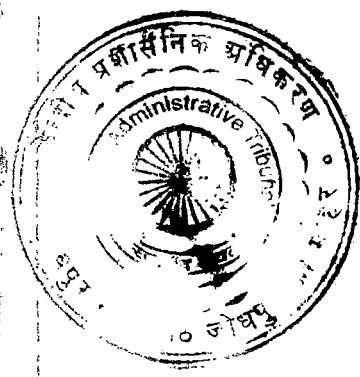
F/11
I/S

been provided for the persons who have completed the course under the Apprentices Act, therefore, this advertisement should be quashed and the applicant should be appointed to the post of Khalasi Helper without any written examination.

2. The respondents have filed their reply to the O.A. They plead that the controversy raised by the applicant in this O.A. is no longer res-integra and has been clinched by a Bench of this Tribunal in O.A.No.266/2002 (Surendra Kumar etc. Vs. Union of India etc.) decided on 7.7.2003. The said O.A. was dismissed. Respondents plead that though Apprenticeship Training was provided to the applicant but no guarantee was given to him that he would be given any appointment. On the contrary before imparting training under the Apprentice Ship Act, an agreement is required to be executed which clearly provides that there is no guarantee or promise of employment on completion of apprentice. Thus, having given consent by executing the agreement, the applicant cannot claim the appointment in the Railways without facing the positive act of selection. The applicant cannot simply bye-pass the examination to be conducted in view of Annexure A-1. It is thus pleaded that the O.A. may be dismissed.

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

k



I/10
7/12

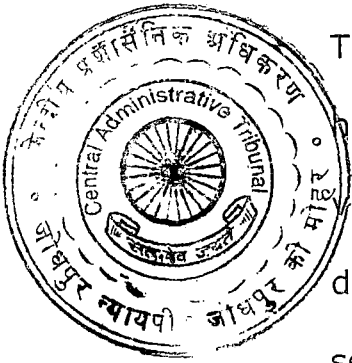
4. The learned counsel for the respondents has heavily relied upon the judgement delivered by this Bench in O.A.No.266/02 wherein similar prayer like the one contained in this O.A. was made by an Apprenticeship Trainee and this court, after referring to various judgement of the Supreme Court and even one relied upon by the applicant in this O.A. i.e. U.P.State Road Transport Corporation and Others Vs. U.P. Parivahan Nigam Shikshukh Berozgar Sangh and Others, (1995) 2 SCC, 1, has held that the O.A. is not maintainable. In that case, this Tribunal has noticed that the Apex Court has laid down four principles to be kept in mind while dealing with the claim of trainees to get employment after successful completion of their training. Since the respondents in that O.A. had stated that they are adhering to these principles but still the controversy regarding conducting of the written examination was decided by this Tribunal holding that the Hon'ble Supreme Court did not lay down any proposition of law that no written test should be conducted in case of the Act Apprentices who have completed their course in a particular establishment to be considered for appointment. The Apex Court has only held that a trainee would not be required to appear in any written examination if it is not provided by the Regulations, meaning thereby that if the Regulations do not provide for holding of the examination for the apprentice Trainees, then the examination shall not be held. But as regards this selection, it is not the case of the applicant that



K

I/11 7/13

the recruitment rules do not require for conducting of any written test for the Apprentices. Even in the O.A. the applicant has submitted that as per the Indian Railway Establishment Establishment Manual, Paragraph 159, vacancies in the category of Skilled Artisans Grade II in various Engineering Department are to be filled up 25% by selection from course completed Act Apprentices, I.T.I. pass candidates and Matriculates from the open market etc. 25% from serving semi skilled and 50% from lower grade employees. As per Item 179 for recruitment for Class IV railway servant the procedure is laid down in which there is no reservation for course completed Act apprentices.



Thus, the applicant also challenges Item No.179 and 159 and it has been prayed that the same be declared as illegal. In our view, since this Bench of the Tribunal in the O.A. has already decided the main controversy referred to above, no grounds are seen to grant the relief to the applicant. We do not find any merits in the challenge posed by the applicant to the Item No.179 or 159 of the manual, as it has not been shown that the same are unconstitutional or violative of any fundamental right of the applicant. So, we find that the same cannot be declared as unconstitutional or arbitrary or violative of articles 14 and 16 of the Constitution and the applicant cannot be appointed without appearing in the examination concerned and even otherwise law has been settled in O.A.No.266/2002 Surendra Kumar & Others (supra), fully covers the case of the applicant and having regard

K

I/12
I/14



for the precedent system, we cannot differ with it, without any material brought to our notice for doing so. Thus, the said judgement is binding on this Tribunal. In the result, this O.A. is found to be devoid of any merits and is rejected, without any order as to costs.

S.R.
(G.R. PATWARDHAN)
MEMBER (A)

Kuldip Singh
(KULDIP SINGH)
VICE CHAIRMAN

December 16, 2004.

HC*

R. LOPY

27/11/05
3

Copy Re

K

3.1.05

Part II and III destroyed
in my presence on 31/10/2013
under the supervision of
section officer () as per
order dated 18/10/2013

P.R. S
Section officer (Record) 31.10.2013