

# IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

ERNAKULAM BENCH

O. A. No. 491 of 1993

DATE OF DECISION 23.3.1993

P Ravindran \_\_\_\_\_, Applicant(s)

Mr Majnu Komath \_\_\_\_\_ Advocate for the Applicant(s)

Versus  
Union of India rep. by  
the Secretary, Railway Board, Respondent(s)  
Rail Bhavan, New Delhi and  
others.

Mr Thomas Mathew Nellimocettil, Advocate for the Respondent(s)  
ACGSC

CORAM :

The Hon'ble Mr. AV Haridasan, Judicial Member

and

The Hon'ble Mr. R Rangarajan, Administrative Member

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgement ?
4. To be circulated to all Benches of the Tribunal ?

## JUDGEMENT

Shri AV Haridasan, J.M

The applicant, an Electrical Fitter in the scale of Rs 950- 1500 has filed this application praying that the order of the Divisional Personnel Officer dated 1.12.92 at Annexure-X may be quashed and the respondents may be directed to promote the applicant as Electrical Chargeman -B with retrospective effect from the date on which Shri KR Lenappan, whose name figure at Sl.No.5 in the Annexure-I alert notice, was appointed to the post of Electrical Chargeman-B in the scale of Rs 1400-2300. A short account of the fact can be stated as follows:-

2 The applicant while working as Electrical Fitter was first included in the alert notice for selection to the post

of Electrical Chargeman-B against 25 per cent quota of Skilled Artizans issued on 14.4.87 at Annexure-I. His name figure at Sl.No.18. Thereafter, by order dated 28.5.87 at Annexure-II issued by the D.P.O, Palghat, the names of the applicant and one K Sukumaran were deleted on the ground that they were not eligible to attend to the above selection. Aggrieved by the order at Annexure-II, the applicant made a representation on 29.6.87 at Annexure-III claiming himself to be eligible to participate in the test and requesting that he may be allowed to participate in the selection. No reply was given to the applicant for this representation. Thereafter, the final alert notice dated 29.6.87 at Annexure-IV which contained 16 names was issued. Pursuant to that a test was held and a panel was prepared. Four persons were appointed from the panel as Electrical Chargeman-B by two orders, one dated 24.9.90 at Annexure-VI(A) and the other dated 8.8.91 at Annexure-VI(B). In the meanwhile, the applicant and two others had filed OA 595/90 before this Tribunal claiming seniority over Respondents 4 to 7 in the cadre of Electrical Fitter. By judgment dated 21.4.92 it was held that the applicants in those application, including the applicant before us, were entitled to be placed above the Respondents 4 to 7 in OA 595/90 and accordingly, a direction was issued for revising the seniority list accordingly. The respondents were also directed to conduct a test for filling up the post of Artisans-staff for Electrical Department notified by

Annexure-VII order in that O.A. After the pronouncement of judgment in that case, the applicant made a representation dated 12.10.92 at Annexure-IX to the Senior D.P.O., Palghat requesting that a suitability test may be held for testing his suitability for appointment as Electrical Chargeman-B for a vacancy had arisen in the year 1987. In reply to this representation, the impugned order dated 1.12.92 was issued by the DPO, Palghat wherein the applicant was informed that there were only four vacancies for which a test was already held in the year 1987, that one post was reserved for SC and one for ST communities and that even if the applicant had been allowed to participate in the selection process, he would not have been appointed as none of his juniors even on the basis of the revised seniority position had been appointed. It was indicated in the reply that the panel drawn up on the result of the test held in 1987 had already xxx expired in the year 1989. Aggrieved by this order, the applicant has filed this application.

3 The applicant's case is that if as a matter of fact he was permitted to participate in the selection test in the year 1987, he would have been appointed as Electrical Chargeman and denial to him of an opportunity on erroneous understanding of his seniority position of Electrical Fitter has caused undue hardship to him. On this ground the applicant prays that the

is entitled to the relief claimed in this application.

4 We have heard the counsel on either side and gone through the documents carefully. It is true that the seniority position of the applicant in the cadre of Electrical Fitter has undergone a change pursuant to the judgment of this Tribunal in OA 595/90 at Annexure-VII dated 24.4.92. But even from the judgment it cannot be seen as to what would have been his position in the seniority list and according to the seniority whether the applicant was eligible to be called for the test in 1987. Even assuming that as per the revised seniority of the applicant, the applicant would have been eligible to be admitted to the trade test in 1987 at this distance of time it is not open for the applicant to claim that he should be trade tested and fitted against a vacancy for which selection was held as back as in the year 1987. When the applicant's name was removed from the first alert notice at Annexure-I and Annexure-II, the applicant was aggrieved and thus he made the representation. But he did not pursue the matter. If he was really aggrieved by the decision, he should have challenged the same before the proper forum at the appropriate time. So, <sup>as</sup> the selection process <sup>is</sup> already over and since the selected persons have been appointed, <sup>as</sup> after the panel has elapsed, the applicant has no right to claim that he should have been considered for selection which was already held in the year 1987, <sup>T</sup> the claim of the applicant is hopelessly

barred by limitation. Therefore, we do not find any reason for further deliberations in the matter and hence the application is rejected under Section 19(iii) of the Administrative Tribunals Act of 1985.

5 There will be no order as to costs.

  
(R Rangarajan)  
Administrative Member

  
(AV Haridasan)  
Judicial Member

23.3.1993