

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No.185/2000

Dated this the 21st day of February, 2000

CORAM:

HON'BLE SHRI A.V.HARIDASAN, VICE CHAIRMAN

HON'BLE SHRI J.L.NEGI, MEMBER(A)

P. K.Sundaram,
Telegraph Peon, Central Office,
Southern Railway,
Palghat.

.. Applicant

(By Advocate Mr.M.R.Rajendran Nair)

vs.

1. The Divisional Personnel Officer, Personnel Branch,
Southern Railway, Palakkad.
2. Union of India represented by the
General Manager, Southern Railway,
Madras.

.. Respondents

(By Advocate Mrs. Sumathi Dandapani)

This Application having been heard on 21.2.2000, the Tribunal on the same day delivered the following:

ORDER


HON'BLE SHRI A.V.HARIDASAN, VICE CHAIRMAN:

The applicant who is a Telegraph Peon was included in the list of persons eligible to take examination for promotion as Office Clerk in the year 1994 (A1). However, the test was postponed to another date by order dated 19.5.1994. The applicant according to him, not having been further informed of the date on which the said examination was held, could not appear in the examination. His juniors who appeared were selected and appointed. Again in the year 1998, Annexure A4 notification dated 13.3.98 was issued containing the names of persons eligible to take the examination excluding the applicant. The applicant is aggrieved by that. The applicant, therefore, made a representation stating that his name was not

included in the list of persons eligible to take the examination, that his juniors have been selected and appointed and that therefore, the applicant might be considered for appointment as Office Clerk with effect from the date on which his juniors were promoted. Alleging that the representation is hanging fire, the applicant has filed this application for a declaration that he is eligible to be considered for promotion as Office Clerk and for a direction to the respondents to consider the applicant for promotion as Office Clerk with effect from the date of promotion of his juniors after subjecting him to a written examination.

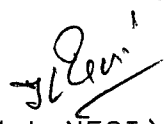
2. We have heard the learned counsel on both sides.

3. On a careful scrutiny of the application and on hearing the learned counsel on both sides, we do not find any legitimate grievance of the applicant which calls for admission of this application and further deliberation. If the applicant's name was not included in the list of eligible persons for taking the examination for appointment to the post of Office Clerk, the applicant should have taken up the matter immediately. The applicant did not do that. Now, the applicant is said to have made a representation A5 which does not carry any date at all seeking sympathetic consideration for his promotion as Office Clerk with effect from the date on which his juniors were selected and appointed. A person who has not appeared in the test or has not taken steps to challenge the non-inclusion of his name in the list of persons



eligible to take the examination is not after a lapse of more than one year and ten months entitled to take up the issue now. Even otherwise, the applicant is not entitled to claim promotion with effect from the date on which his juniors were promoted by subjecting him to a special test as no rule or instruction directs that it should be done. The applicant has not based his claim on any legal right.

4. In the light of what is stated above, the application is dismissed without any order as to costs.


(J.L.NEGI)
MEMBER(A)


(A.V.HARIDASAN)
VICE CHAIRMAN

rv

List of Annexures referred to in the order:

- Annexure A1: True copy of the list of Group D staff eligible to appear or the written test for promotion as Office Clerk, No.J/P.531/VIII/Commercial Clerks/Vol.I, dated 5.5.1994 issued by the 1st respondent.
- Annexure A4: True copy of the list of casual employees eligible for the written test which excludes the applicants name, No.J/P 531/XII/Vol.8, dated 13.3.1998 issued by the 1st respondent.
- Annexure A5: True copy of the representation dated nil submitted by the applicant to the 1st respondent.