

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.NO.266/2002

Monday, this the 5th day of August, 2002.

CORAM;

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

HON'BLE MR T.N.T.NAYAR, ADMINISTRATIVE MEMBER

M.K.Thankappan,
Driver(Rtd.),
Thundiparambil House,
H.No.9/351, Karuvelipady,
Thoppumpady.P.O.
Cochin-682 005. - Applicant

By Advocate Mr CSG Nair

Vs

1. Union of India represented by
the Secretary,
Ministry of Information & Broadcasting,
New Delhi-110 001.
2. The Director,
Directorate of Field Publicity,
East Block-IV, Level-III,
R.K.Puram,
New Delhi.
3. The Joint Director,
Directorate of Field Publicity,
(Govt. of India),
Thiruvananthapuram-695 001.
4. The Field Publicity Officer,
(Govt. of India),
Triphthi Lane,
S.A.Road, Ernakulam,
Cochin-682 036. - Respondents

By Advocate Mr K Kesavankutty, ACGSC

The application having been heard on 5.8.2002 the Tribunal on
the same day delivered the following:



O R D E R

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

The applicant was a Staff Car Driver under the 4th respondent. He retired on superannuation on 31.3.94. In terms of A-1 scheme dated 30.11.93, the applicant is entitled to be promoted as Staff Car Driver Grade-I. However, he was not given such promotion even though by order dated 7.3.97 (A-3), the 2nd respondent included him in the list of persons eligible to be promoted as Staff Car Driver Grade-I. The applicant has therefore, filed this application for a declaration that he is eligible for notional promotion as Staff Car Driver Grade-I with effect from 30.11.93 and all consequential benefits.

2. The respondents in the reply statement resisted the claim of the applicant on the ground that trade test is a requirement for promotion as Staff Car Driver Grade-I and II according to A-1 scheme and that as the applicant has not been trade tested, he is not entitled to the benefit.

3. We have heard Shri CSG Nair, learned counsel for the applicant and Shri K.Kesavankutty, ACGSC for respondents. Shri Kesavankutty referred us to R-3(f) order by which holding of trade test is dispensed with in the case of persons resigned, died or retired on or after 8.11.96 for the benefit in implementation of the O.M. dated 15.2.2002. Such a waiver has not been made in the case of beneficiaries under A-1

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scheme. Learned counsel for the respondents contend that not being subjected to trade test stands in the way of the applicant applicant getting the benefit .

4. We are not persuaded to agree with the contention of the respondents. A-3 is the order by which the 2nd respondent has declared the persons whose names are shown in the list, have become qualified for promotion as Staff Car Driver Grade-I and Grade-II, subject to the recommendations of the DPC. Second respondent is the competent authority to decide whether the Drivers are qualified or not for grade promotion. The second respondent in A3 order and list appended thereto declared that the applicant was qualified for promotion as Driver Grade I subject to recommendation of the DPC. Trade test is not be held by DPC. The DPC would consider the service records only. Hence the contention that the applicant not being subjected to trade test is not entitled to promotion cannot stand. Since the second respondent has held the applicant qualified, what is to be seen is only his suitability by the DPC on a perusal of his ACR. That a meeting of the DPC was not held is not the fault of the applicant and therefore the benefit due to him cannot be denied.

5. In the light of what is stated above, we dispose of the application directing the respondents to place the case of the applicant for promotion to Staff Car Driver Grade-I before a Review DPC under the scheme and if the DPC found him suitable for such promotion, to give the applicant notional

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promotion with effect from the due date under A-1 without any trade test, with all consequential benefits, including refixation of his terminal benefits. The above direction shall be complied with and the consequential monetary benefits including pension, made available to the applicant within a period of three months from the date of receipt of copy of this order. There is no order as to costs.

Dated, the 5th August, 2002.


T.N.T. NAYAR
ADMINISTRATIVE MEMBER
trs


A.V. HARIDASAN
VICE CHAIRMAN

APPENDIX

Applicant's Annexures:

1. A-1 : A true copy of the O.M.No.22036/1/92-Estt(D) dt.30.11.93 issued by the Ministry of Personnel, Public Grievances & Pension.
2. A-2 : A true copy of the O.M.No.22036/1/92-Estt(D) dt.27.7.95 issued by the Ministry of Personnel, Public Grievances & Pension.
3. A-3 : A true copy of the circular No.A-45011/41/95 Admn.I dt. 7.3.97 issued by the 2nd respondent.
4. A-4 : A true copy of the representation dt.5.3.98 submitted by the applicant to the 2nd respondent.
5. A-5 : A true copy of the representation submitted by the applicant to Sri.Mahajan, Hon'ble Minister for Information & Broadcasting.
6. A-6 : A true copy of the representation submitted by the applicant to the 1st respondent.

Respondents' Annexures:

1. R-3a: True copy of letter No.27-10/94-TE-II dated 8.4.97 of the Govt. of India, Dept. of Telecom as printed in June 1997 issue of Swamy's News.
2. R-3b: True copy of letter dated 30.5.99 by the Editor, The New Indian Express, Express House, Kaloor, Kochi-17 addressed to the 3rd respondent.
3. R-3c: True copy of letter dated 9.6.99 by the 3rd respondent addressed to the Editor, The New Indian Express, Kaloor, Kochi-17 with copy to the applicant.
4. R-3d: True copy of the letter No.K.12/(b)/2000/2474 dated 4.12.2000 by the 3rd respondent addressed to the 2nd respondent.
5. R-3e: True copy of the letter No.A-45011/41/95-Admn. Government of India, Directorate of Field Publicity, Ministry of I & B, dated 12.10.2001 addressed to the 3rd respondent.
6. R-3f: True copy of the O.M.F.No.43019/54/96-Estt.(D), dated 23.8.2001 of the Govt. of India, Dept. of Per.Tr. as printed in November 2001 issue of Swamy's News.
