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CIRCUIT BENCH LUCKNOW/RESERVED

Central Administrative Tribunal, Allahabad.

Registration O.A.No.457 of 1987

Suresh Kumar Srivastava ... Applicant

Vs.

Divisional Railway Manager,  
Northern Railway Lucknow and  
another ... Respondents.

Hon.Ajay Johri, AM  
Hon.G.S.Sharma, JM

(By Hon.G.S.Sharma, JM)

This petition u/s.19 of the Administrative Tribunals Act XIII of 1985 was originally filed by the applicant for a direction to the respondents to call the applicant for interview for the post of Safety Counsellors but by way of amendment the applicant now seeks a direction that he is entitled to appear at the selection of Safety Counsellors.

2. The relevant facts of the case are that the applicant was appointed as Traffic Apprentice on 14.7.83 and after 3 years training from 14.7.83 to 12.7.86, he was posted as Senior A.S.M in grade of Rs.455-700 at Lucknow. A notification No.757 E/5-1/TI Safety dated 21.1.1987 was issued by the respondents for selection for the post of Safety Counsellors (Traffic) grade I (Rs.700-900) inviting applications from the staff of Traffic Department working in the grade of Rs.550-750 ignoring the other traffic staff working in the grade of Rs.455-700. The applicant, though not entitled according to the aforesaid notification dated 21.7.87, had applied on 9.2.1987 for his appointment but he was not called for interview. The contention of the applicant

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is that under the rules, he is eligible for appointment as Safety Counsellor, grade Rs.700-900 and was entitled to be called for interview for considering his <sup>eligibility for</sup> appointment but the respondents deprived him of an opportunity for such appointment wrongly.

3. The petition has been contested on behalf of the respondents and in the reply filed on their behalf by the Divisional Personnel Officer Northern Railway Lucknow- respondent no.2 it has been stated that the post of Safety Counsellor (Traffic) also known as Traffic Inspector is an ex-cadre selection post and vide notification dated 21.1.1987 the zone of consideration was restricted to only immediately lower grade in terms of Railway Board's circular letter no.E(NG)1-75-PMI-44 dated 21.9.82 and as such, the eligibility being confined to the immediately lower grade of Rs.550-750, the applicant was not eligible for consideration and he was rightly not called for interview. The annexure A-5 to the petition which lays down that the minimum service of 2 years in the lower grade could be reduced to 1 year in the case of promotion to be ordered upto June 1986 is not applicable to the case of the applicant. The applicant was neither working in the immediately lower grade nor had completed two years service in each grade according to the rules, <sup>as per rules</sup> he did not fulfil the requisite qualifications and he is not entitled to be considered for appointment and called for interview.

4. In his rejoinder, the applicant reiterated his allegation that he fulfills the legal requirements for consideration for his appointment as Safety Counsellor

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and the respondents should call him for interview whenever it is scheduled.

5. There is no dispute in this case that the applicant had joined the railway service as Traffic Apprentice on 14.7.83 and he remained under training upto 12.7.86 and was thereafter posted as Sr. A.S.M. in the grade of Rs.455-700. The notification dated 21.1.1987, copy annexure A-2, issued by the Divisional Office of the Northern Railway Lucknow states that for the selection of Safety Counsellors (Traffic) Grade I in the grade of Rs.700-900 the staff working in the immediately lower grade of Rs.550-750 with P-16 qualification having two years minimum service in the grade on the date of the issue of the letter was necessary. The applicant was working in the <sup>higher</sup> lower grade and as such, did not come within the eligible zone according to this letter. The applicant has placed his reliance on circular letter dated 22.9.73 issued by the Ministry of Railways, copy annexure A-4, which shows that on the basis of the observations of Kunjroo Committee the Board had decided that the post of Safety Counsellor in the Railways could be treated as ex-cadre post and it was directed that persons selected for these posts should have adequate educational background, practice, experience and special aptitude for safety work. The selection was confined to two grades below the grade of Safety Counsellor. The content of the application is that according to this decision of the Railway Board, he being two grades below the post notified by the DRM, came within the zone of consideration and had accordingly applied for his consideration for this post vide his application dated 9.2.87, copy

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annexure A-3. He has further placed his reliance on annexure A-5, the copy of letter dated 12.9.85 of the Railway Board to the General Managers of all the Railways stating that for reckoning the period of minimum service of 2 years in the relevant lower grade for promotion in the Safety categories may be reduced to 1 year in the case of promotion to be ordered upto June 1986. As the selection of the applicant in question has to be considered after June 1986, this letter has not application to the case of the applicant. Lastly the applicant has placed his reliance on the circular letter dated 10.6.1981 annexure A-6 from the Headquarters Office of Northern Railway stating that the time spent under training immediately before appointment to the service would count as qualifying service for the purpose of pension and gratuity and for the purpose of appearing in the departmental examination. His further contention, therefore, is that his period of training should be counted as his qualifying service for the purpose of consideration for appointment as Safety Counsellor.

6. On the other hand, the contention of the respondents is that the letter dated 22.9.1983 of the Railway Board, annexure A-4, did provide that the selection could be confined to 2 grades below the grade of Safety Counsellor but it was not mandatory and the appointing authority could restrict the selection from the immediately lower grade instead of two grades below the grade of Safety Counsellor. As the DRM Lucknow decided to confine the selection from the grade immediately below the grade of Safety Counsellor the applicant has no legal right to insist that the selection should be made by extending the eligibility zone upto two grades below. The respon-

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dents have further placed their reliance on the subsequent circular letter dated 21.9.82 of the Railway Board copy annexure RA-1 which states that the period of years service in a particular grade has to be counted from the date of regular promotion and promotions have to be made from the staff working only in one grade below who had completed a minimum of 2 years service in that grade. In our opinion, the Railway Board was fully competent to reconsider and revise its earlier decision dated 22.9.73, annexure A-4, and as according to the latest circular letter, the promotions are to be made from staff working only in one grade below, the grievance of the applicant for extending the zone of consideration upto two grades below is not justified and genuine.

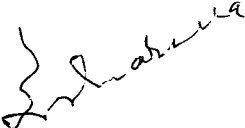
7. Under circular letter dated 31.5.82, copy annexure RA-2, of the Railway Board which was clarified by letter dated 21.9.82, annexure RA-1 it was stated that this circular was issued in supersession of the previous circular letters of the Ministry in respect of the promotion to safety category posts and it was decided that no relaxation was to be allowed in the prescribed qualification, period of service etc., while filling up these posts. The earlier circular letters of the Railway Board on which the applicant places reliance thus stand superseded. The circular letter dated 26.5.82 of the Railway Board, copy annexure RA-3, dealing with the post of Safety categories further reconsidered the earlier circular letters dated 31.5.82 and 21.9.82 aforesaid. This letter and the subsequent letter dated 19.12.82 of the Railway Board, annexure RA-4, provide that 2 years service means actual 2 years service.

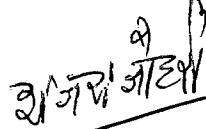
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8. We have very carefully considered the relevant circular letters issued by the Railway Board from time to time on the point in issue and are of the view that according to the latest circular of the Railway Board, the eligibility zone for selection for the post of Safety Counsellor could be confined to the grade immediately below and as the applicant was not working in that grade, he does not come within the zone of consideration and has no right for being considered for such selection. There is, therefore, no force in his petition and it merits dismissal.

9. The petition is accordingly dismissed without any order as to costs.

  
MEMBER(J)

  
MEMBER(A)

Dated: 29th Sept. 1988  
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