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CENTRAL ADMINISTRATIVE TRIBUNAL

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O.A. No. 352 of 1990

Ram Narain

Applicant

versus

Union of India & others

Respondents.

Hon. Mr. Justice U.C. Srivastava, V.C.  
Hon. Mr. K. Obayya, Adm. Member.

(Hon. Mr. Justice U.C. Srivastava, V.C. )

By means of this application, the applicant who has subsequently amended the application, has prayed that the respondents be directed to take trade test from the applicant before expiry of 6 months from the date of declaration of result of test of ShriSatya Narain i.e. 21.6.90 and further they be directed to hold the test on or after 21.6.90 in pursuance of Railway Board letter, after decision of the appeal.

2. The grievance of the applicant is that by the order dated 18.9.1990 the test for the post of Mistry was suspended. He was initially appointed as Mali and in between earned promotion and was waiting for his turn but has been deprived of the promotion and according to him he belongs to reserved category and was declared unsuccessful. The examination in which the applicant was to appear, has been suspended without any reason. The applicant made representation against the same and the applicant was informed that the date of next

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examination will be communicated at an early date but no examination took place. One D.P. Singh, who was working as Crane Driver, retired in April, 1990 and this post was earmarked for S.C. candidate in the roster but even then the examination did not did not take place and promotion has been given to one Shri Lal Bahadur Singh who is due to retire in the year 1994 and the post in question is to be filled in by promotion and they want to promote Shri Sarya Narain, who is due to retire in 1992, while the applicant is to retire in 1998 and they know that if the applicant is promoted once, Shri Satya Narain will not get the post with the result the post is still lying vacant.

3. The respondents have resisted the claim of the applicant saying that the applicant was not senior to Satya Narain and he cannot claim seniority over Shri Satya Narain and other persons. In the supplementary affidavit, it has been stated that the appeal of Shri Satya Narain has been finalised during the pendency of this application, by the Headquarters and as per directions, suitability test for the post of Mistry Crane Driver was taken and Shri Satya Narain was found suitable and letter was issued for promoting him and as Shri Satya Narain has already been promoted, there is no other post of Mistry Crane Driver and no other person can be promoted.

4. From the above position, it is clear that Shri Satya Narain has been appointed. The respondents are directed to consider the <sup>wr</sup>candidate of the applicant and promote him in case he is suitable and for this

let an examination be conducted as early as possible, and the applicant will be given due place. In case, the post is not available/vacant, whenever the post is vacant, the ~~same~~ applicant will be promoted and the case will not be given by default and he will be given his due place/post.

5. Application is disposed of as above with no order as to costs.

*Parvez*  
A.M.

*V.C.*  
V.C.

Shakeel/-

Lucknow: dated 23.10.92.