

FINAL ORDER

CENTRAL ADMINISTRATIVE TRIBUNAL: LUCKNOW BENCH

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Tuesday the 16th day of May 2000 ( 16-5-2000)

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PRESENT

The Hon'ble Shri D.V.R.S.G.DATTATREYULU, MEMBER(J)

and

The Hon'ble Shri S.MANICKAVASAGAM MEMBER(A)

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O.A.No. 273 /91; OA No.603/92

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1.Harish Chandra

2.Raj Nath Sharma .. Applicants in OA No.273/91

Sri Param Hans Singh .. Applicant in OA No.603/92

Vs.

1.Union of India,M/o Railways, New Delhi

2.The General Manager, North Eastern Railway  
Gorakhpur

3.The Sr.Divisional Mechanical Engineer(Diesel)  
Diesel Shed, North Eastern Railway,Gonda

4.The Divisional Railway Manager(P.M)  
N.E.Railway, Lucknow

..Respondents in both  
the OAs

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Mr.J.P.Mathur .. Advocate for the applicants in both the

OAs

Mr.A.K.Chaturvedi .. Advocate for the respondents  
in both the OAs

Order: Pronounced by the Hon'ble Shri S. MANICKAVASAGAM  
MEMBER (A)

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Since the issues involved and the reliefs sought for are identical, these OAs have been heard together and are disposed of by this common order.

2. The applicants in these OAs were trade tested for promotion to the grade of Motor Vehicles Driver Gr.I and II (MVD -I and II for short). The results of the said trade test was also published by the respondent - vide their letter dated 16.3.1989. Since the respondents ~~xxx~~ <sup>are</sup> refusing have not recognised the said test and ~~xxx~~ <sup>refused</sup> to promote them based on the trade test, the applicants are before the Tribunal seeking the following reliefs:-

"The Tribunal may please by way of appropriate writ, order or direction direct the opposite parties to issue promotion order promoting the applicant No.1 in the grade of Vehicle Driver and promote the applicant No.2 in Grade II of the Vehicle Driver with effect from 16.3.1989 with all consequential benefits".

2. The respondents have filed a detailed reply resisting the claim of the applicants. It is averred that there are three grades among MVDs, viz.

MVD Gr.I - 1320-2040

MVD Gr.II-Rs.1200-1800

MVD Gr.III-Rs.950-1500

It is further stated that the various drivers in different departments of the Lucknow division were centralised with effect from 1.6.1996. According to the department, the holding of the trade test for promotion to the various grades by the Sr. Divisional Mechanical Engineer (Sr.DME for short), North Eastern Railway, and the results published by him at his level, is null and void and is therefore inconsequential. It is the case of the respondents that the competent authority has not given the approval for holding of such trade tests. The reply proceeds to state

that under the circumstances the applicants cannot claim promotion to the various grades.

3. When this matter was taken up for final disposal on 13.5.2000 both sides were not represented. <sup>It was partly heard on 12.5.2000</sup> Since the pleadings are complete and the OAs are of the year 1991 we have decided to dispose of the matter on merits. We have perused the records.

4. It is not denied that there <sup>are</sup> vacancies in the Lucknow division in the grade of MVD-II. It is also not disputed that the Sr. DME did conduct the test and had also published the result of successful candidates, viz. 4 ~~xxx~~ persons who took up the examination as 'passed' in full. It may be noted that the authorities whoever they are at any point of time had not held that the conduct of the test and declaration of the results were without jurisdiction and therefore inconsequential. If that be so, the competent authority ought to have cancelled the said result. But this has not been done.

5. Under the given facts and circumstances of the case, we do not therefore understand the logic behind the whole system. It may be true that the cadre of MVDs along with other grades might have been centralised in the Lucknow division. But the conduct of the test for ~~XXXX~~ promotion to the various grades in MVD by ~~as~~ a Sr. DME as cannot be termed out of the way since it is not stated as to who will conduct such test and would publish the results. Further, if the above aspect was made clear at the relevant point of time the concerned authority ought to have recalled the test results and conducted a fresh test. But that was also not done. That apart, in the absence of any positive statement from the respondents we are of the view that it is a mere procedural formality which is well within the competence of the appropriate authority to be regularised and rectified for future. Instead of doing that, it is surprising that these applicants who have been ~~trade~~ tested and declared as qualified

in the trade test are left in the lurch ~~for~~ the last 8 years without any benefit accruing to them. Under these circumstances the applicants are entitled to succeed and the following orders are passed:-

(a) The test conducted on 16.3.1989 and the results published thereof shall form the basis for promotion ~~to~~ of the applicants to the appropriate grades in the Motor Vehicles Driver cadre. The applicants shall be promoted to the appropriate grades from the appropriate dates when the vacancies arose. They will also be entitled for consequential pay fixation and other monetary benefits

(b) There will be no order as to costs.

6. The OAs are allowed to the extent indicated above ~~with no order as to costs.~~

S. Manickavasagam

(S. MANICKAVASAGAM)

MEMBER(A)

D.V.R.S.G. DATTATREYULU

MEMBER(J)

16.5.2000

nks: