

(89)

CENTRAL ADMINISTRATIVE TRIBUNAL, LUCKNOW BENCH

LUCKNOW

T.A. No. 1171/87

(Writ Petition No. 3809/1983)

Chhedi Lal Goswami
and others

Petitioners

versus

Union of India & others

Respondents.

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

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

This is a transferred application transferred to this Tribunal under section 29 of the Administrative Tribunals Act, 1985, which was filed in the High Court as writ petition. The applicants who were working as Electrical Signal Maintainer Grade III, according to the entry they were ready for the trade test in the scale of in the scale of Rs 330-480 for the post of ESM grade II and letter was issued vide office order dated 7/9.6.1980. An advertisement was issued by the Railway Service Commission, in a daily newspaper 'Aaj' for filling 7 posts of E.S.M. Grade II in the scale of Rs 330-480. The applicants did not pay heed to the advertisement, as they were already in service but later on it was found that 51 candidates were recruited through the said Commission against 7 advertised posts of E.S.M. II illegally and arbitrarily without any order of sanction of the posts by competent authority. Thereafter no

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trade test was held on the ground, as stated by the respondents, that unless all the directly recruited candidates are absorbed, no departmental test would be held.

2. The applicants filed representations but the same were not disposed of and the existing 12 Vacancies were going to be filled and training to be held in July, 1983. The applicant, after adopting other means consequently, filed writ petition praying that a mandamus directing the opposite parties not to fill all the 12 vacancies for the post of Electrical Signal Maintainer Grade II in Lucknow Division by the direct recruits and observe the percentage fixed from each source. trade and they may be directed to take the test of the candidates working as Electrical Signal Maintainer Grade III and the order by which dated 11.3.82, 30.6.83 and 10.6.83 be quashed.

3. In view of the Railway Board's letter the post of E.S.M. II in the grade of Rs 330-480 is to be filled from 3 sources (1) 33 1/3% by direct recruits from open market (2) 33 1/3% to be filled on the basis of departmental examinations from amongst the ESMs of grade Rs 260-400 and (3) 33 1/3% by promotion of ESM III in the grade of Rs 260-400 and the direct recruits cannot be accommodated in preference to the departmental candidates and their post cannot be taken away by them.

4. The Railway Administration, in its reply stated that the applicants were appointed as ESM III

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and they were promoted after passing the trade test w.e.f. 17.4.84 which was later on revised. Thereafter after passing the further trade test for the post of ESM Grade I were promoted as such vide order dt.

10.2.87 and the benefit of which was given to them from 1.1.1985. According to the respondents 33 1/3% posts are to be filled by direct ^{recruits} ~~recruits~~ and 66 2/3% through trade test from amongst the eligible departmental candidates.

The trade test was held in 1984 and after filing the writ petition the applicant has been given the benefit of the same. It has been admitted that the notice was issued and thereafter the direct recruitments were made and the relief has already been given to the applicant and no useful purpose will be served in keeping the case pending. The right of the applicant will not be jeopardised. The learned counsel for the respondents ~~applicant~~ contended that the application has become infructuous as the relief has been granted except the matter regarding seniority and promotion. In case the respondents have given more percentage than required or their appointment is irregular or illegal. The application is otherwise dismissed. No order as to costs.

A.M.

V.C.

Lucknow: Dated: 15.12.92.

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30/12/92