

CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH: :MUMBAI

ORIGINAL APPLICATION NO.243/2001

Date of Decision: 27.02.2002

Shri Sanjay Kumar Sinha

Applicant(s)

Shri G.S. Walia with Ms. Ekta. Advocate for Applicants

Versus

Union of India & others

.. Respondents

Shri A.L. Kasturey

Advocate for Respondent No.1

Shri M.S. Ramamurthy

Advocate for R2 to R5

CORAM: HON'BLE SHRI BIRENDRA DIKSHIT. VICE CHAIRMAN  
HON'BLE SMT. SHANTA SHASTRY. .. MEMBER (A)

- (1) To be referred to the Reporter or not?
- (2) Whether it needs to be circulated to other Benches of the Tribunal?
- (3) Library ✓

  
(SMT. SHANTA SHASTRY)  
MEMBER (A)

Gajan

CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH: :MUMBAI

ORIGINAL APPLICATION NO. 243/2001

THIS THE 27TH DAY OF FEBRUARY, 2002

CORAM:

HON'BLE SHRI JUSTICE BIRENDRA DIKSHIT. VICE CHAIRMAN  
HON'BLE SMT. SHANTA SHASTRY MEMBER (A)

Sanjay Kumar Sinha,  
working as Junior Engineer Grade I  
CME Drawing office,  
Old Headquarter Building,  
Western Railway, Churchgate,  
Mumbai-400 020.

... Applicant

By Advocate Shri G.S. Walia with Ms. Ekta.

Versus

1. Union of India, through  
General Manager,  
Headquarter Office,  
Western Railway, Churchgate,  
Mumbai-400 020.
2. Raju Gad, working as  
Section Engineer,  
CME Drawing Office,  
Old Headquarter Building,  
Western Railway, Churchgate,  
Mumbai-400 020.
3. P.S. Salunke, working as  
Section Engineer,  
CME Drawing Office,  
Old Headquarter Building,  
Western Railway, Churchgate,  
Mumbai-400 020.
4. G.S. Patel, working as  
Section Engineer,  
CME Drawing Office,  
Old Headquarter Building,  
Western Railway, Churchgate,  
Mumbai-400 020.
5. S.S. Hirbhagat, working as  
Section Engineer,  
CME Drawing Office,  
Old Headquarter Building,  
Western Railway, Churchgate,  
Mumbai-400 020.

... Respondents

By Advocate Shri A.L. Kasturey for R1  
Shri M.S. Ramamurthy for R2 to R5.

...2.



O R D E R

Hon'ble Smt. Shanta Shastry. Member (A)

This application is against the non-consideration /non-placement of the applicant in the post of Section Engineer/Chief Draughtsman in the pay scale of Rs.6500-10500 (RPS).

2. The applicant is presently working as Junior Engineer Grade-I in the pay scale of Rs.5500-9000 (RPS). He is a graduate in engineering and was directly appointed in 1999. He was recruited as Head Draughtsman (Mechanical/ Junior Engineer Grade-I) in the scale of Rs.1600-2660 revised to Rs.5500-9000 on 16th November, 1999 against 25% quota for Engineering Graduates. On completion of one year training, he was regularised in the post of Junior Engineer Grade-I with effect from 16.11.2000. The Railway Board issued a letter on 28.9.1998 that the direct recruitment quota of 25% for Engineering Graduates in the grade of Rs.1600-2660 (Rs.5500-9000) stood discontinued and it was replaced by the grade of Rs.6500-10500 to the extent of 20%. The remaining 80% of the post were required to be filled by promotion of staff from the lower grade of Rs.5500-9000 in the usual manner by promotees. It was also decided that 20% direct recruitment quota should be by LDCE for a period of three years upto 31.8.2001 or till such time as no such staff remains awaiting such placement whichever is earlier. It was also mentioned therein

that normal minimum eligibility condition of two years service in the minimum lower grade will apply as usual except in the case of employees with Engineering Degree qualification being placed in the grade of Rs.6500-10500.

3. The respondents issued a notification on 03.6.2000 for filling up of four posts of Section Engineer (Draw.)/ Chief Draughtsman Grade-II in the scale of Rs.6500-10500. Six persons who are promotees were called for selection. All the four vacancies were filled up and the panel was declared on 28.7.2000 by which Respondents No.2, 3, 4 & 5 were selected and promoted, the applicant was not.

4. The applicant made a representation on 04.7.2000 but it was rejected on 05.7.2000. He made a further representation on 07.02.2001 asking for a review. However, the same was also turned down by the respondents by the letter dated 16.3.2001, which has been made by the applicant.

5. It is the contention of the applicant that the four vacancies were not properly filled up in that at least one of the vacancies ought to have been earmarked and reserved for 20% quota for Engineering Graduates under Clause 4 (2)(ii) of the Railway Board letter referred to earlier. The respondents filled up all the four

all the four vacancies against the 80% quota and the applicant was not given any opportunity to appear in the selection. This is against the principles of natural justice. He had become eligible for consideration for promotion to the post of Section Engineer/ Chief Draughtsman since 16.11.2000 and he ought to have been considered.

6. The respondents submit that the applicant is fully aware that he would not be eligible to be considered for the aforesaid post of Section Engineer in the pay scale of Rs.6500-10500. He was recruited as apprentice head draughtsman in the scale of Rs.5500-9000 on 15.11.1999 and not as Head Draughtsman. Since he was not a regular employee on 01.9.1998 he was not eligible to be considered for the said post and scale on 01.9.1998. He became a regular employee only on 16.11.2000. Therefore, his claim deserves to be dismissed in limine. The applicant has already been apprised that his request for placement in the grade of Rs.6500-10500 would be considered at the appropriate time depending on the rule position at the time he become eligible.

7. The respondents have further explained that the notification was issued for filling up of four posts of Chief Draughtsman Grade-II on 08.6.2000. The break up of vacancies was two - general, one - SC and one - ST. The selection was conducted on 03.7.2000 and the panel

M

was drawn up on 28.7.2000. A per the Railway Board letter dated 28.9.1998 20% of the vacancies were to be reserved for direct recruitment quota for engineering graduates. Since none with degree in engineering was available from amongst six employees called for selection, four posts were filled in from serving employees, who had completed two years of regular service in the lower grade. Respondents No.2 to 5 also have filed their affidavit and have added that the circular letter of the Railway Board does not talk about keeping 20% of the post unfilled to accommodate the engineering graduates who might become eligible in future. The applicant was not in regular service as on the date of selection or when the vacancies were notified and therefore the applicant is not entitled for consideration for promotion to the post of Section Engineer/ Chief Draughtsman.

8. We have heard the learned counsel for both the sides. The applicant's point was that there was 20% quota to be filled by direct recruitment of graduates in engineering. The post filled up by the respondents were by non-graduates. Thus, instead of 80%, 100% posts were filled up by non-graduates. Secondly, the scale of Rs.5500-9000 was not existing and therefore, the applicant could not put in two years of service in the lower pay scale. he should have been appointed in the new pay scale, having been appointed after 1998. We

been looked into the relevant letter of the Railway Board dated 28.9.98 and the provisions laid down therein. In our considered view, the main thing is that when the selection was held on 03.7.2000 the applicant was a not Railway Servant as he had not yet been regularised. he was only an apprentice and therefore, rightly he could not have a claim for consideration on the relevant date. As he was not eligible, rightly he was not considered for promotion against 20% quota reserved for engineering graduates. It is not that the respondents have totally refused to consider his case. They have stated that his case would be considered at the appropriate time depending upon the rule position after he becomes eligible. Therefore, we do not find any merit in the OA, the same is dismissed without any order as to costs.

*h. a. s.*

(SMT. SHANTA SHASTRY)  
MEMBER (A)

*B. D.*

(BIRENDRA DIKSHIT)  
VICE CHAIRMAN

Gajan