

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH
ORIGINAL APPLICATION NO:803/2001
DATED THE 11TH DAY OF APRIL, 2002

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

Shri Bharat K Dehade,
ASM, Grant Road, Wester Railway,
residing at
39/5, Railway Quarters,
Dahisar(E), Mumbai - 400 068. ... Applicant

By Advocate Shri K.R.Yelwe

V/s.

1. Union of India through
The Secretary to the Government of India,
Ministry of Railways (Railway Board),
Rail Bhavan, New Delhi - 110 001.
2. The General Manager,
Western Railway,
Headquarter, Churchgate,
Mumbai.
3. The Divisional Railway Manager,
Western Railway,
Bombay Central,
Mumbai - 400 008. By Advocate Shri C.M.JHA. Respondents

(ORAL)(ORDER)

Per Smt.Shanta Shastry, Member(A)

The applicant is aggrieved that he is not allowed to appear in the examination held for promotion to the post of Law Assistant. He has therefore prayed to quash and set aside the impugned order dated 6/6/2001 and to give a direction to the respondents to hold supplementary examination for promotion to the post of Law Assistant and allow him to appear for the said examination.

2. According to the recruitment rules for the post of Law Assistant, 33.1/3% of the posts are to be filled by Direct Recruits from open market and 66.2/3% of the vacancies are to be

...2..

filled by promotion by selection from amongst the serving employees. Serving employees who are Law Graduates, can also apply for the post provided they have served for five years in any Branch of the Railway Administration. In the case of the applicant, though he is a Law Graduate, he has not put in five years of service. He has joined the Railway Service on 4/7/1996 and was to complete five years only on 3/7/2001. The selection was notified on 31/10/2000 and the last date for receipt of application was on 4/5/2001 and therefore the applicant was not eligible for consideration for promotion as Law Assistant in the promotee quota.

3. The learned counsel for the applicant submits that the action of the respondents is arbitrary and is in violation of the orders issued by the Railway Board from time to time in the matter of reservation for vacancies of Schedule Castes and Schedule Tribes. The applicant belongs to Schedule Caste. According to the applicant the action of the respondents in treating the applicant as ineligible on the ground of non completion of five years and treating other employees in the grades lower than that of the applicant, is in violation of Note (iii) of the Railway Board's letter dated 20.6.1966 which reads as follows: "in case a junior employee is called up for a selection by virtue of his satisfying the relevant minimum service conditions all his seniors should be held to be automatically eligible irrespective of whether or not they satisfy the relevant minimum service condition." The respondents have denied that the Railway Board's letter dated 16/10/2000 is applicable in the present case. That letter is applicable in the selection of cadre post in which the candidates/employees of same

avenue are considered eligible. The present selection is for the general post in which employees from different divisions/units as well as different seniority units are entitled to apply and become eligible and therefore there can be no relaxation in this case.

4. In view of the facts and circumstances of the case, we find that the OA is devoid of merits as the applicant does not fulfil the requirement of five years experience. The OA deserves to be dismissed and is dismissed accordingly. No order as to costs.

Shanta
(SMT. SHANTA SHASTRY)
MEMBER(A)

B. Dikshit
(BIRENDRA DIKSHIT)
VICE CHAIRMAN

abp

dr 11/4/02
O.L. *despatched*
to *ent (s)*
on *11/4/02*

pw