

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH.

ORIGINAL APPLICATION NO. : 570 of 1995.

Dated this Tuesday, the 18th day of July, 2000.

Mukhtyar Singh, Applicant.

Shri L. M. Nerlekar, Advocate for the applicant.

VERSUS

Union of India & Another, Respondents.

Shri V. S. Masurkar, Advocate for the respondents.

CORAM : Hon'ble Shri A. V. Haridasan, Vice-Chairman.

Hon'ble Shri Govindan S. Tampi, Member (A).

- (i) To be referred to the Reporter or not ?
- (ii) Whether it needs to be circulated to other Benches of the Tribunal ?
- (iii) Library.

(A. V. HARIDASAN).
VICE-CHAIRMAN.

OS*

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Mukhtyar Singh,
Chargeman 'A',
O/o. the Divnl. Electrical
Engineer (T.D),
Central Railway, Kalyan.

... *Applicant.*

(By Advocate Shri L. M. Nerlekar)

VERSUS

1. Union of India through
The Divisional Railway
Manager,
Central Railway,
Bombay V. T.

2. Union Public Service Commission,
Dholpur House,
Shahajan Road,
New Delhi - 110 001. ...

Respondents.

(By Advocate Shri V. S. Masurkar).

OPEN COURT ORDER

PER : Shri A. V. Haridasan, Vice-Chairman.

The applicant working as a Chargeman in the Office of the Divisional Electrical Engineer (TD), Central Railway, Kalyan, applied to the Union Public Service Commission (U.P.S.C. for short) for the post of Electrical Engineer (APD) Group 'A' Gazetted in the grade of Rs. 2200-4000 pursuant to an advertisement. The applicant sent an application directly to U.P.S.C. but intimated the fact to the D.R.M. (P), Mumbai Division, by his letter dated 18.04.1994 enclosing a cutting of the advertisement. When he received from the U.P.S.C. a letter dated 13.07.1994, exhibit-C calling upon him to produce within

twenty-one days a certificate experienced from the present employer and a photo-copy of the B.E. Degree Certificate, he requested the first respondent by letter dated 27.07.1994 to issue the experienced certificate so that he can send it to the U.P.S.C. before 08.08.1994. Finding no response to this, the applicant again addressed the first respondent by a letter dated 20.09.1994 stating that the inaction on the part of the first respondent in the matter was calculated to spoil his career. Finding that experienced certificate was neither given nor sent to the U.P.S.C., the applicant filed this application for the following reliefs :

- "(a) The respondents be directed to issue Service Certificate and forward the same to U.P.S.C.
- (b) The respondents be directed to consider the case of the applicant for posting in any equivalent grade of the post offered by the U.P.S.C.
- (c) The respondents be directed to award suitable cost of the application.
- (d) Any other reliefs as the Hon'ble Tribunal may deem fit and just in the circumstance of the case."

It has been alleged in the application that the applicant had applied to the U.P.S.C. directly and intimated the first respondent about the fact of the application as provided in the Railway Board circular dated 31.01.1979 and that the inaction on the part of the respondents in not issuing the experienced certificate has caused irreparable loss to the applicant and this action is arbitrary, irrational and wholly unjustified.

2. On behalf of the first respondents, reply statement has been filed. It has been contended that the applicant should have applied through proper channel, that while forwarding the

experience certificate, as per the requirement of the second respondent, it was necessary to state whether the applicant was physically fit for the service and as the applicant was at the relevant time, though attending duty, suffering from partial disability, the certificate of fitness could not be issued. The first respondent contended that the action on the part of the respondents was perfectly in order and, therefore, the applicant is not entitled to any relief.

3. The first relief claimed by the applicant has now practically become infructuous, as no purpose would be served by forwarding the experience certificate now to the U.P.S.C. The prayer in para 8 (b) of the O.A. also cannot be granted because the appointment of the applicant to a higher post can be made only in accordance with the rules of promotion in the department.

4. On consideration of the entire facts and circumstances, as has been brought out from the pleadings and materials made available before us, we are of the considered view that the action of the first respondents in not giving the applicant the experienced certificate enabling him to forward the same to the U.P.S.C. and to participate in the process of selection was highly careless, negligent and inconsiderate. It is incorrect to say that the first respondent was obliged to state whether the applicant was physically fit because what was required was only an experience certificate, as is seen from exhibit-C. The contention that the fitness had to be mentioned, has been taken only to get away from the effect of the first respondent's unjustified inaction in complying with the legitimate request of the applicant to grant him the experience certificate. However, at this distance of time, we are not in a position to grant any

affectionately relief to the applicant. We expect that the first respondent would be more careful in future and that the competent authority of the department would give proper instructions to the lower authorities against recurrence of such careless behaviour.

5. With the above observations, we close this application.

No costs.

(GOVINDAN S. TAMPI)
MEMBER (A).

OS*



(A. V. HARIDASAN)
VICE-CHAIRMAN.