

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH
JAIPUR.

T.A.No.2168/86

Dt. of order: 29.9.93

Shiv Charan Singh

: Applicant

Vs.

Union of India & Ors. : Respondents

Mr.J.K.Kaushik : Counsel for applicant

Mr.G.P.Sorai : Counsel for respondents

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Hon'ble Mr.Gopal Krishna, Member (Judl)

Hon'ble Mr.O.P. Sharma, Member (Adm.).

PER HON'BLE MR.GOPAL KRISHNA, MEMBER (JUDL.).

Plaintiff Shiv Charan Singh (hereinafter referred to as 'the applicant') had filed a civil suit in the Court of the learned Munsif North, Kota, against the defendant the Union of India (hereinafter referred to as 'the respondent') for a declaration that the entire proceedings as to the reversion of the applicant by the respondent from the post of TCM Grade III in the pay scale Rs.260-400 are illegal, malafide and in-effective as also for a declaration that the applicant is entitled to continue on that post with all the benefits attached to it. The applicant had also prayed for permanent injunction restraining the respondent from reverting the applicant from the aforesaid post. The suit was transferred to this Tribunal under Sec.29 of the A.Ts Act and registered as T.A.No.2168/86.

2. We have heard the learned counsel for the parties and perused the records. The applicant was initially appointed as a Khalasi in the Western Railway, Kota Division. Thereafter a trade test was conducted on 17.2.82 for promotion to the post of TCM in the pay scale of Rs.260-400. The applicant cleared the trade test and thereafter by an order dated 13.5.82 at R-1, he was promoted and posted as TCM Grade III at Kota.

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However, on 3.1.84, the respondent decided to conduct a fresh trade test for the above post and the applicant alongwith others was advised to keep himself in readiness for the test at short notice. The applicant represented to the Divisional Railway Manager, Kota, vide his letter dated 24.1.84. But in response to the aforesaid representation he was informed that the proceedings of the trade test of TCM Grade III and similar other posts had already been cancelled vide order dated 22.2.83. The applicant, therefore, was compelled to file the present suit/application.

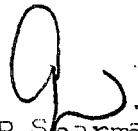
3. The application is being resisted by the learned counsel for the respondents on the ground that there was certain irregularities in conducting the trade test and due to those irregularities, the trade test had to be cancelled. It is also urged by the learned counsel for the respondent that the applicant has not challenged the cancellation of the trade test in the application and as such the cancellation of the test cannot be questioned. It is note-worthy that the applicant has sought relief in unequivocal terms for declaring the entire process of a likely reversion due to the applicant's not appearing in the proposed fresh trade test ^{now} and it cannot be said by any stretch of reasoning that there was no challenge to the cancellation of the trade test held earlier. The applicant had passed the earlier trade test and it was on the basis of his having passed the trade test that he was promoted to the post of TCM Grade III. There is nothing on the record to indicate any irregularity in conducting the trade test held on 17.2.1982.

4. In view of the discussions made above, the suit/T.A. succeeds. The respondents are directed not to revert the applicant from the post of TCM Grade III in

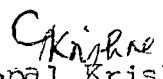
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the pay scale of Rs.260-400. The applicant shall not be subjected to any fresh trade test for this post. There shall be no order as to costs.


(O.P. Sharma)

Member (A).


(Gopal Krishna)
Member (J).