

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH
JAIPUR.

T.A.NO. 2228/86 : Date of order: 15.3.93

Om Prakash & Another : Applicant.

Mr.J.K.Kaushik : Counsel for the applicant.

Vs.

U.B.I. & Drs. : Respondents.

Mr.G.P.Soral : Counsel for the respondents.

CORAM:

HON'BLE MR. B.B.Mahajan, Administrative Member

HON'BLE MR. GOPAL Krishna Judl. Member

PER HON'BLE MR. B.B.MAHAJAN, ADMINISTRATIVEMEMBER

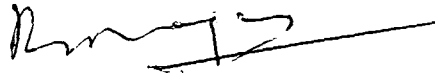
Om Prakash and Babu Lal had filed a Civil Suit in the Court of Munsif, Magistrate North Kota, praying for declaration that they were regulars/ Permanent on the post of booking clerk/Asstt.Coaching clerk and for issue of injunction to the respondents not to revert or remove them from these posts. The applicants had stated that applicant No.1 was promoted on the post of booking clerk on 5.8.80 and applicant No.2 had been promoted as booking clerk/Assistant Coaching clerk on 6.6.82. The applicant No.1 appeared in the written test for selection ^{for} the post of booking clerk/ Assistant Coaching Clerk in response to order dated 6.3.83 and applicant no.2 in the written test in response to order dated 7.12.83. Both of them qualified in the written test but were failed in Viva-Voce. The respondents have stated that both the applicants were ~~as~~ working as Class IV Employees.

Neither of them had been promoted to the Class III post of Booking Clerk/ Assistant Coaching Clerk as those post are filled by regular selections. They were only asked to perform the duties of Booking Clerk/Assistant Coaching Clerk from 5.8.80 and 6.6.82 respectively, as a local arrangement due to non availability of selected employees. The applicant No.1 appeared in the test held in pursuance to Notification dated 12.5.81 and qualified in the written test vide order dated 6.5.83 but was unsuccessful in the Viva-Voce and his name was therefore not included in the Panel of successful candidates declared on 25.8.83. Applicant No.2 did not appear in the selection test held on 12.5.85 in pursuance of notification dated 12.5.81 but appeared in the subsequent selection test held in pursuance of letter dated 13.7.83. He also qualified in the written examination but was not successful in the Viva-Voce. The successful employees who had been empanelled were available for posting and the applicants could not therefore, have continued on these posts.

2. Shri J.K.Kaushik, Counsel for the applicant has pleaded no instructions. We have heard the counsel for the respondents and perused the record. As per Rules, Class III posts of Booking Clerks/,Assistant Coaching Clerk in the Railways are filled by selection. As was held by the Full Bench of the Tribunal in Jethanand Vs. Union of India 1989(2) SLJ 657, the right to hold the selection/promotional post accrues only to those Railways Employees who have qualified in a selection test and are empanelled for promotion/selection post. Since the applicants had admittedly failed in the selection test and duly selected candidates were available to fill the vacancies, the applicants were

obviously not entitled to continue on these post.
There is thus no force in the T.A. The same is
accordingly dismissed. Parties to bear their own costs.

G.Krishna
(GOPAL KRISHNA)
Member Judl.


(B.B. MAHAJAN)
Adm. Member

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Anil