

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

O.A.No.591/93

Date of order:28.6.95

Arvind Kumar Sharma : Applicant

Vs.

Union of India & Ors. : Respondents

Mr.R.N.Mathur : Counsel for the applicant.

Mr.Manish Bhandari : Counsel for respondents.

CORAM:

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

Hon'ble Mr.Ratan Prakash, Member(Judl)

PEP HON'BLE MR.O.P.SHARMA, MEMBER(ADM).

In this application under Sec.19 of the Administrative Tribunals Act, 1985, Shri Arvind Kumar Sharma has in effect prayed that since he has already ~~been~~ passed the selection test for the post of Mechanical Apprentice (Intermediate) vide the selection panel dated 24.9.93 (Annx.A2), his name now cannot be deleted from the said panel and he should be sent for training in pursuance of the said selection. He has also challenged the inclusion of the name of respondent No.4, Shri Ravindra Kumar Kashyap after deletion of the applicant's name from the said panel.

2. The case of the applicant is that on the basis of a notification issued by the respondents for appointment on the post of Mechanical Apprentice(Intermediate), the applicant was subjected to written test and interview and having succeeded ⁱⁿ the written test and interview he was placed in the panel Annx.A2 dated 24.9.93 at Sl.No.11. Vide ~~the order~~ Annx.A3 dated 28.9.93 orders were issued for the applicant being sent on training. Thereafter, however the applicant's name was deleted from the said panel by issue of order Annx.R1 dated 1.11.93 and in place of the applicant the name of one Shri Ravindra Kumar Kashyap, respondent No.4, was included in the said panel. The applicant's grievance is that he had successfully completed the selection test and was placed in the panel thereafter. Accordingly deletion of his name now from the said panel and inclusion of the name

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of respondent No.4 is in violation of the principles of natural justice as he has not been given any opportunity of being heard in this regard.

3. The respondents in their reply have stated that the applicant had come on transfer from another seniority unit. He had wrongly been assigned seniority in the seniority unit to which he was transferred, therefore, the applicant was wrongly placed in the selection panel. When this mistake was brought to the notice of the respondents they rectified the error and in order to avoid perpetuation of the illegality, they modified the panel so as to not cause injustice to the eligible employees who were senior to the applicant. On the basis of his correct seniority the applicant does not fall within the zone of consideration and therefore, he could not have been placed on the panel of eligible candidates.

4. The learned counsel for the applicant stated during the arguments that the revision of the applicant's seniority if any was at the back of the applicant, ^{and} he had not been given any opportunity to represent against the proposal to change his seniority. Therefore, the deletion of the applicant's name on the basis of any such revision of seniority was not justified. Further, inclusion of the applicant's name in the panel was that on the basis of the process of selection. Since the applicant had successfully cleared the selection test, he was entitled to be included in the panel and sent for training. The learned counsel for the respondents stated that the applicant had not challenged the issue of revision of seniority even in the amended O.A. which was filed after the respondents had filed their reply, in which it was stated that the name of the applicant was deleted from the panel on account of the earlier wrong assignment of seniority to him.

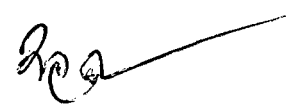
5. We have heard the learned counsel for the parties and have gone through the records. Regardless of whether the applicant was earlier called for selection on the basis of wrongly assigned seniority, the

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fact remains that he has already ~~been~~ cleared the selection test on the basis of his being called by the respondents to appear in it. There was no misrepresentation of facts by the applicant himself. Therefore, for a mistake committed by the respondents, the applicant is being made to suffer. In the circumstances of the present case, after hearing the counsel for the parties, we hold that if and when a fresh panel of Mechanical Apprentice (Intermediate) is to be prepared, the applicant shall not be subjected to a fresh selection test and that he shall be considered for inclusion in a fresh panel on the basis that he has already cleared the selection test. Since a fresh notification dated 8.4.95 for selection for the post of Mechanical Apprentice has already been issued, fresh selection would be held in terms of this notification, without the applicant being subjected to a fresh selection process.

6. In the result, the O.A. is disposed of accordingly with no order as to costs.

7. In view of the fact that the O.A has been disposed of by a separate order, the M.A.No.185/95 also stands disposed of.


(Ratan Prakash)

Member(Judl)


(O.P.Sharma)

Member(Adm.).