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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR,

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Date of Decision: 19/5/2009

OA 300/93

1. Indian Railway Telecom Association, Western Railway, Kota Division through its Vice President Shri Trilok Mishra, WTM-II Bayana, Western Railway, r/o Qr.No.202/B, Loco Colony, Bayana.
 2. S.M.Sharma, TCM-II under T.C.I. Bharatpur, Western Railway.
- ... Applicant

Versus

1. Union of India through General Manager, Western Railway, Churchgate, Mumbai.
 2. General Manager, Western Railway, Churchgate, Mumbai.
 3. Chairman, Railway Board, Rail Bhawan, New Delhi.
 4. Divisional Signal & Telecom Engineer (E), Western Railway, Kota Division, Kota.
 5. Jamil Ahmed, TCM, Agra Fort, W/Rly, Kota Division, Kota.
 6. Rafiq Hussain, TCM, Vikramgarh, W/Rly., Kota Division, Kota.
 7. Raghuvir D, TCM at Bayana, W/Rly., Kota Division, Kota.
- ... Respondents

CORAM:

HON'BLE MR.S.K.AGARWAL, JUDICIAL MEMBER

HON'BLE MR.N.P.NAWANI, ADMINISTRATIVE MEMBER

For the Applicant

... Mr.Shiv Kumar

For the Respondents

... None

O R D E R

PER HON'BLE MR.S.K.AGARWAL, JUDICIAL MEMBER

In this OA the applicant makes a prayer to struck down para-3(ii) of the rule framed by respondent No.2 as being unconstitutional and the respondents be directed to fill up the vacancies under Artisan category as per para-4 of the Restructuring Scheme without subjecting the affected persons to trade test and allow them all consequential benefits.

2. The learned counsel for the applicant has argued that the circular dated 27.1.93, issued by the Railway Board, is inconsistent, arbitrary and unconstitutional so far as it provides for trade test. He has also argued that North-Eastern Railway, Gorakhpur, has withdrawn the provision regarding trade test, therefore, the respondents may be directed to fill up the vacancies under Artisan category without subjecting the affected persons to trade test. On the other hand, the learned counsel for the respondents has argued that the circular issue

by the Railway Board is not inconsistent with the instructions issued by the Railway Board from time to time and it is not arbitrary and unconstitutional. Therefore, the applicant is not entitled to any relief sought for. He has also argued that if the North-Eastern Railway, Gorakhpur, has withdrawn the provision regarding trade test, the same is not binding on the Western Railway and the applicant is not entitled to the relief sought for. Learned counsel for the respondents has also referred a decision given in OA 291/94, Chiranji Lal v. Union of India and Others, decided by this Tribunal on 5.5.2000, and argued that the case of the applicant is squarely covered by the above decision and the applicant is not entitled to any relief sought for.

3. We have given anxious consideration to the rival contentions of both the parties and have also perused the whole record and the decision given in OA 291/94 dated 5.5.2000.

4. It is an admitted fact that there was no mention about the trade test in the circular dated 27.1.93, issued by the Railway Board. Therefore, the matter was discussed before the Cadre Restructuring Committee, to which representatives of both the recognised federations were associated and decided that for promotion under the Restructuring Scheme trade test is necessary for Skilled Artisan, which is clearly evident from the letter dated 26.7.94. The applicant failed to establish the fact that provision regarding the trade test in the impugned order is in any way unconstitutional, repugnant to the Constitution of India, arbitrary or inconsistent with the instructions issued by the Railway Board from time to time in this regard. Therefore, we are of the considered opinion that there is no basis to struck down the provision made in the impugned letter regarding the trade test.

5. As regards the contention of the learned counsel for the applicant that North-Eastern Railway, Gorakhpur, has withdrawn the provision of trade test, therefore, the same may be withdrawn by the respondents, We do not accept this contention as the Western Railway is not bound by the decision of the North-Eastern Railway, Gorakhpur. It has not been explained under what circumstances the said provision was withdrawn by the North-Eastern Railway. Moreover, we have already taken a view in OA 291/94, Chiranji Lal v. Union of India and Others, decided on 5.5.2000, that there is no basis to struck down the provision made regarding the trade test in the impugned letter and the Western Railway is not bound by the decision taken by the North-Eastern

Railway, Gorakhpur, in this regard. The decision regarding the trade test has been taken by the Cadre Restructuring Committee, which was associated with both the recognised federations and after great deal of discussions this decision was taken which, in our considered view, cannot be said to be unconstitutional, arbitrary, repugnant to the Constitution of India and inconsistent with the instructions issued by the Railway Board from time to time in this regard.

6. We, ^{are} therefore, of the considered view that the applicant has no case for interference by this Tribunal and this OA is dismissed with no order as to costs.



(N.P. NAWANI)

MEMBER (A)



(S.K. AGARWAL)

MEMBER (J)