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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: JAIPUR BENCH: JAIPUR.

O.A. No. 389/1993

Date of order: 11.11.97.

Hand Kishore Sharma S/o Shri K.C.Sharma, Clerk, O/c D.R.M. in Establishment Branch, Western Railway.

: Applicant

Versus

1. Union of India through General Manager, Western Railway, Churchgate, Bombay.

2. Chairman, Railway Recruitment Board, Ajmer.

: Respondents.

None present for the applicant

Mr. Manish Bhandari, counsel for the respondents.

CORAM:

HON'BLE SHRI O.P.SHARMA, MEMBER (ADMINISTRATIVE)

HON'BLE SHRI RATAN PRAKASH, MEMBER (JUDICIAL)

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(PER-HON'BLE-SHRI-O.P.SHARMA, MEMBER (ADMINISTRATIVE))

In this application under Section 19 of the Administrative Tribunals Act, 1985, Shri Hand Kishore Sharma has prayed that the selection process based on notification dated 1.9.1992 (Annx.A/1) may be quashed and respondent No.2, Chairman, Railway Recruitment Board, Ajmer may be directed not to make any recruitment on the basis of the speed test in typing.

2. The case of the applicant is that he passed the Matriculation Examination from the Board of Secondary Education Ajmer in 1971. He joined the Indian Army on 8.7.1979 and was released therefrom on 22.8.1988 thereby serving the Indian Army for more than fifteen years. After release from the Indian Army the applicant appeared in the examination held by the Railway Recruitment Board, Bombay and after being declared successful he was given appointment in the Ratlam Division of Western Railway and was thereafter transferred to the office of D.R.M. Ajmer where he is working as a clerk. The Railway Recruitment Board Ajmer issued a notification dated 1.9.1992 inviting applications from

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serving graduates in Scale Rs. 950-1500 for recruitment to the post of Senior Clerk Scale Rs. 1200-2040 (notification dated 1.9.1992 is at Annexure A-1). As per the process of selection the application would be sent through proper channel and thereafter a written test would be held followed by a speed test in typing. The applicant applied through proper channel for the aforesaid post. The written examination was held on 16.5.1993. The applicant was unaware about the holding of the selection test because he was not called for it. He submitted a representation to the Chairman, Railway Recruitment Board, Ajmer on 11.6.1993 requesting him to send a call letter to the applicant for written test, but no heed was paid to his request. The applicant has thus not been allowed to appear in the written test and he will lose further chances of his promotion. A speed test is likely to be conducted for the post of Senior Clerk on 4.7.1993 and thereafter the vacancies of Senior Clerks are going to be filled up. According to the applicant, Railway Recruitment Board has not followed the correct procedure laid down while issuing call letters for the written test. The applicant has placed on record Annexure A/4 which is an amendment dated 12.2.1986 made to the Rules regarding re-employment of Ex-servicemen in Central Civil Services and Posts. According to the amendment made in Rule 6 thereof, for appointment to any reserved vacancy in Group 'C' posts, a Matriculate Ex-servicemen who has put in not less than fifteen years of service in the Armed Forces of the Union may be considered eligible for appointment to the posts for which the essential educational qualification prescribed is graduation. There are certain other conditions attached but ^{these} ~~that~~ are not relevant for this application. The applicant has also placed on record Annexure A/5 which is a communication dated 13.12.1992 issued

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by the E.R.B. regarding relaxation of educational qualifications in cases of Ex-servicemen. It has been stated therein that it has now been decided that the relaxation of educational qualification which has been referred to in Annexure A/4 may also be granted for the purpose of promotion to the higher grades subject to the condition that no qualification higher than the one prescribed for entry in the feeder grade is laid down for the purpose of such promotion. In other words, even while granting promotion to a higher post in Group 'C', the same educational qualification as is available as per the amendment made vide Annexure A/4 should be ^{applicable} ~~available~~. Thus in effect, for the purpose of promotion also after initial appointment, the applicant would be treated as a graduate. He has, therefore, assailed the action of the respondents in not calling him for written test for the post carrying scale Rs. 1200-2040 although he is to be treated as possessing the educational qualification of graduation.

3. The reply filed by the respondents simply denies the averments of the applicant.

4. None is present on behalf of the applicant. We have heard the learned counsel for the respondents and have perused the material on record.

5. The learned counsel for the respondents referred to the amendment to the Rules made as at Annexure A/4 and stated that the amended rule clarifies that the equivalence of educational qualification referred to therein is for appointment to any reserved vacancy in Group 'C' post. In other words, there has to be a vacancy reserved for an Ex-

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servicemen for the purpose of treating the qualification of matriculation with fifteen years service in the Armed Forces of the Union as equivalent to graduation. The post against which the applicant applied, which was notified vide Annexure A/1 was to be filled up from amongst the serving graduates in the Railways. These posts were not reserved for Ex-servicemen and, therefore, the equivalence of educational qualification sought by the applicant would not be applicable. He added that this is also not a case of promotion to which the relaxation as prescribed in Annexure A/5 may be applicable. This is a case of a direct recruitment to a group 'C' post from amongst serving graduates in the Railways. In either view of the matter, therefore, the equivalence in educational qualification claimed by the applicant would not be available to him. The respondents were, therefore, justified in not calling the applicant for the written test.

6. We have carefully considered the matter. The rules to which amendment vide Annexure A/4 has been made vide notification dated 12.2.1986 are described as Ex Servicemen (Re-employment in Central Civil Services and Posts) Rules, 1979 and the amended rules have been described as Ex-servicemen (Re-employment in Central Civil Services & Posts) (Amendment) Rules, 1986. Thereafter amendment is shown to have been made to Rule 6 and the amended rule provides that for appointment in any reserved vacancy in Group 'C' post a matriculate Ex Servicemen who has put in not less than fifteen years of service in the Armed Forces of the Union may be considered eligible for appointment to the posts for which the essential educational qualification prescribed is graduation. There is no indication in notification Annexure

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A/1 that there is any reservation for Ex Servicemen in the vacancies to be filled up in pursuance of the said notification. Therefore, the benefit which is available to Ex Servicemen as per the amended rule 6 would not be available because there is no vacancy which is reserved for an Ex Serviceman. There is also some merit in the argument of the learned counsel for the respondents that this is not a case of promotion either from a lower post to a higher post to which the relaxation referred to in Annexure A/5 would be applicable. Vide Annexure A/1 what is proposed is recruitment/appointment to a post carrying scale Rs. 1200-2040 only from amongst serving graduates in the Railways.

7. In these circumstances the equivalence of educational qualification claimed by the applicant would not be available to him. Speed test is only a follow up of written test and if the applicant has not been called for written test, there is no question of his having been called for speed test in typing.

8. In these circumstances, we find no merit in this original application. It is, therefore, dismissed. No order as to costs.


(RATAN PRAKASH)

JUDICIAL MEMBER


(O.P. SHARMA)

ADMINISTRATIVE MEMBER