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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR

Date of order: 05.04.2000

OA No.36/1994

1. Gopal Singh S/o Shri Ghom Singh, aged 36 years R/o village Bhunabai, post Rasulpura, Distt. Ajmer.
2. Shiv Lal Parche S/o Shri Mukund Parche R/o Village Khajpura, post Hatundi, District, Ajmer.

.. Applicants

Versus

1. Union of India through the General Manager, Western Railway, Churchgate, Mumbai.
2. Divisional Railway Manager (E), Western Railway, Ajmer Division, Ajmer.

.. Respondents

Mr. S.K.Jain, counsel for the applicants

Mr. Hemant Gupta, proxy counsel to Mr. M.Rafiq, counsel for the respondents

CORAM:

Hon'ble Mr. Justice P.S.Faikote, Vice Chairman

Hon'ble Mr. H.P.Hawani, Administrative Member

Order

Per Hon'ble Mr. Justice P.S.Faikote, Vice Chairman

This application is filed for a direction in the form of mandamus directing the respondents to appoint the applicants from the date they have passed the Trade Test and count their services/seniority from the date of their appointments.

2. It is the case of the applicants that in pursuance of the notification issued vide Ann.A1 calling for the applications to the post of Driver-cum-Mechanic under the category of Artisan, the applicants applied for the post of Driver-cum-Mechanic and in pursuance of their applications,

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the applicants were called for interview on 27.7.1992 vide Anns.A2/A and A2/B. Vide Ann.A3 dated 28.8.1992, the applicants were declared successful for the posts they applied and applicant No.1, Gopal Singh, was placed at Sl.No.2 and applicant No.2, Shiv Lal Prche, was placed at Sl.No.1 of the panel for the selection. Thereafter, vide Anns.A4/A and A4/B offer of appointments were also issued to the applicants on 1.9.1992. From Ann.A5, it appears that they were also made to undergo Medical Test and according to the medical report they were declared to be appointed as Motor Drivers. Thereafter, vide Ann.A6 both the applicants were sent for one year's training. It is not in dispute that the applicants completed that one year training also. Thereafter, there was a recommendation from the Headquarters of the Western Railway vide letter dated 19.11.1993 (Ann.A7) that suitable orders directing that the candidates who have completed the training and passed the Trade Test, may be given offer of appointment. Thereafter, they were told that the applicants also underwent the Trade Test, result of the Trade Test is not published as yet. In these circumstances, the applicants approached this Tribunal.

3. It is not in dispute that as per the notification calling for the applications vide Ann.A1, the applicants fulfilled the requirements of their qualification. According to the qualification prescribed in Ann.A1, the candidates should have passed the 8th standard. We are noting this contention because this is the only condition which is in dispute in this case. It is not in dispute that the applicants fulfil all other conditions prescribed in the notification.

4. By filing counter the respondents denied the case of the applicants. It is, in substance, the contention of the counter that the applicants have not been given posting as Drivers because they have not passed the 10th standard as prescribed. The fact that the applicants are possessing Heavy Vehicle Driving Licence is not disputed. It is also



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further stated in paragraph 4(vii) that even though the Trade Test regarding the applicants was conducted but the result is not yet published as the same has been kept secret. In para 4(ix) of the counter, it is stated that the applicant are not eligible for appointment against the said post as they do not possess the qualification as laid down in the Railway Board's letter dated 24.2.1979. The counter states that the same has been filed as Ann.R1 but in our verification it is found that this statement is not correct and copy of the said Ann.R1 is not filed in the case. The respondents have not brought to our notice any rule or any order which prescribes the qualification for the post of Driver-cum-Mechanic. In the absence of such material, the only material that would be available for our consideration would be Ann.A1 i.e. the notification calling for the applications for the post of Driver-cum-Mechanic and in Ann.A1 the qualification prescribed is 8th standard. The applicants admittedly passed the 8th standard. If that is so, it cannot be said that the applicants were not eligible to the post of Driver-cum-Mechanic. If the post of Driver-cum-Mechanic requires a qualification of either 10th standard or any other qualification in Ann.A1, the same should have been made clear to the prospective applicants when the applicants were called for appointment to these posts. The same has not been done. The fact also remains that the offer of appointment issued in favour of the applicants vide Ann.A4/A and A4/A on 1.9.1992 has not been cancelled. It is also not in dispute that the applicants have completed the training and have also appeared in the Trade Test but unfortunate to them, the result of the Trade Test has been withheld for the reasons best known to the Department. The selection process started in the year 1992 vide the notification calling for applications vide Ann.A1 and in pursuance of that the applicants underwent not only the Medical Test but they have also undergone training for the period of one year and they have also taken the Trade Test, the result of which is yet to be published by the respondents. Having regard to these circumstances and the applicants have acted on the representation made by


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the Department, as if the applicants were qualified and they have given appointment orders and in these circumstances the action of the Department in not publishing the result of the Trade Test and not issuing any further orders would be contrary to the doctrine of estoppel. It is an estoppel by conduct. In these circumstances, we are of the opinion that the applicants are entitled to the relief as prayed for in this application. We should hasten to add that the applicants would be entitled to posting ultimately if they pass the Trade Test. As we have already stated above, the result of the Trade Test has been withheld and if that is so, there can be a direction to publish the result of the Trade Test and if the applicants passed in the Trade Test, necessary appointment orders should be passed.

Hence we pass the order as under:-

Application is allowed. There shall be a direction to the respondents to publish the result of the applicants regarding the Trade Test they have taken and accordingly issue appointment orders, if the applicants have passed in the said test. In the circumstances, parties shall bear their own costs.

  
(N.P. NAWANI)

Adm. Member

  
(B.S. RAIKOTE)

Vice Chairman