

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

JAIPUR BENCH : JAIPUR

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Date of order : 17.11.2000

O.A. No. 245/1994

Mangi Lal son of Shri Narain Bairwa aged about 51 years resident of Panditpura Dhani Post, Bandikui District, Dausa, at present posted as TCI Grade II in the Office of CTCI, Western Railway, Jaipur.

... Applicant.

versus •

1. Union of India through General Manager, Western Railway, Church Gate, Bombay.
2. Divisional Railway Manager, Western Railway, Jaipur.
3. Yudhir Singh son of Shri Daya Ram, resident of 280-B, New Railway Colony, Jaipur.

... Respondents.

Mr. P.P. Mathur, Adv., Brief holder for Mr. R.N. Mathur, Counsel for the applicant.

Mr. Manish Bhandari, Counsel for the respondents Nos. 1 and 2.

Mr. Vinod Goyal, Adv., Brief holder for Mr. Virendra Lodha, Counsel for the respondent No. 3.

CORAM:

Hon'ble Mr. Justice B.S. Raikote, Vice Chairman

Hon'ble Mr. N.P. Nawani, Counsel for the respondents.

: O R D E R :

(Per Hon'ble Mr. Justice B.S. Raikote)

This application is filed for quashing the order dated 9.5.94 vide Annexure A/1 and Notice dated 13.4.94 vide Annexure A/2. By the impugned order vide Annexure A/1, the applicant has been reverted to the post of TCM Grade I in the pay scale of Rs. 1320-2040. The applicant was given a show cause notice dated 13.4.94 as to why he should not be reverted back to this post (Annexure A/2). It appears that the applicant did not submit any reply to the said



notice, accordingly he was reverted vide Annexure A/1.

2. The case of the applicant is that when he was working as TCM Grade I with the pay scale at Rs. 1320-2040, he had passed Prathma Examination conducted by Hindi Ahitya Sammellan and it is equivalent to Matriculation of the Central Government. Therefore, on the basis of that qualification, he was promoted to the post of TCI Grade III with the pay scale at Rs. 1400-2300. Thereafter, he was promoted to TCI Grade II with the pay scale at Rs. 1600-2660. But by the impugned order at Annexure A/1 dated 9.5.94, he has been now reverted back to the post of TCM Grade I with the pay scale at Rs. 1320-2040, and the same is illegal and without jurisdiction. The applicant contended that the Prathma qualification of the Hindi Sahitya Sammellan is equivalent to Matriculation, therefore, the applicant was entitled to be promoted to the post of TCI Grade III with the pay scale at Rs. 1400-2300 and thereafter, to the post of TCI Grade II with the pay scale at Rs. 1600-2660. But the department, by taking an erroneous view that the examination passed by the applicant was not the required qualification for eligibility, has reverted the applicant and, therefore, the impugned order is without jurisdiction. In support of his contention, the applicant relied upon Annexure A/3, a paper news of Hindi Sahitya Sammellan, Prayag, dated 27.07.80, and also the Notification issued by the Rajasthan Government dated 13.05.74 vide Annexure A/4, recognising Prathma of Hindi Sahitya Sammellan, Allahabad, as equivalent to High School or Higher Secondary - 1st year. On that basis, he contended that he had requisite qualification for promotion. The applicant also filed Annexure A/6, a certificate issued by the Hindi Sahitya Sammellan, Allahabad, dated 20.8.82, showing that the applicant passed Prathma Examination in second class. Learned counsel for the applicant contended that on the basis of Annexure A/3 (the paper news) and the Annexure A/4 (the notification issued by the Rajasthan Govt.), the applicant was rightly held to be eligible for promotion.

to the post of TCI Grade III and thereafter to TCI Grade II. The department after having accepted the certificate of passing Prathma Examination of Hindi Sahitya Sammellan, could not have reverted the applicant back by two stages. Therefore, the applicant's reversion is illegal. The applicant also contended that the requisite qualification is 8th standard, which the applicant passed in the year 1996, after passing the impugned orders. The applicant being a Scheduled Caste community, is entitled to the benefit of passing 8th standard in the year 1996. Therefore, he prays that there should be a direction to the respondents to promote the applicant to the post which he occupied prior to his reversion.

3. By filing counter, the respondents have denied the case of the applicant. The respondents have stated that the applicant was only 6th pass as on the date, he got promotions. He had obtained Prathma Certificate from the Hindi Sahitya Sammellan and the same cannot be equivalent to Matriculation, because no such equivalence has been granted by the Central Government. The learned counsel for the respondents stated that prior to 1974, the Central Government had recognised the Prathma Examination of Hindi Sahitya Sammellan, Allahabad, as equivalent to Matriculation, but after 1974, there was no Notification, recognising the Prathma Examination as equivalent to Matriculation. He stated that the paper news vide Annexure A/3 of the Hindi Sahitya Sammellan of the year 1980 and the Notification issued by the Rajasthan Government vide Annexure A/4 dated 13.5.74, would not be relevant. He also stated that even the Rajasthan Government derecognised the Prathma Certificate issued by the Hindi Sahitya Sammellan, Allahabad. But whatever may be, the applicant seeks employment under the Central Government and he has not placed any Central Government notification, recognising the Prathma Examination as equivalent to Matriculation, in support of his case. The applicant was not qualified for these two promotions (TCI Grade III and II), and in these circumstances, a show cause notice was

issued vide Annexure A/2 and, thereafter, he has been reverted for the post of TCM Grade I vide impugned order Annexure A/1, and the same cannot be said to be illegal. He stated that unless the courses are recognised as equivalent by the Central Government, any person could not rely upon certain courses passed from certain Institutions. The Prathma Certificate of Hindi Sahitya Sammellan, Allahabad, is not recognised as equivalent to Matriculation, therefore, for promotions from the post of TCM Grade-I to TCI Grade-III and later to the post of TCI Grade II, the applicant was not possessing the minimum qualification, which is 8th standard. Further, the case of the applicant that he passed 8th standard in the year 1996 cannot be relevant because as on the dates of promotions in the year 1992 and 1993, the applicant did not possess this qualification. Therefore, he was rightly reverted back. After 2 years of his reversion, the applicant has acquired the qualification of 8th standard in the year 1996, and that would be irrelevant for the purpose of promotions, which had taken place earlier to his acquiring the requisite qualification.

4. The learned counsel for the applicant strenuously contended that even otherwise, the impugned order was passed by the Divisional Railway Manager, and the same should have been passed by the General Manager, who had approved the panel. Therefore, the impugned order was passed by an incompetent authority and on this ground also, the impugned order is liable to be set aside. As against this argument, the learned counsel for the respondents contended that even his earlier promotions were made by the same authority and, therefore, it was passed by the competent authority. It was not the case of any panel being reviewed and his earlier promotions were only on the basis of modified selection of restructuring the posts.

5. By filing rejoinder, the applicant also denied the contents of the reply, which was also referred to by the learned counsel for

the respondents.

6. On the basis of the pleadings and arguments addressed at the Bar, we have to see whether the applicant was qualified for promotions from TCM Grade I to TCI Grade III and thereafter, TCI Grade II on the basis that he had acquired the Certificate of Prathma Examination of the Hindi Sahitya Sammellan, Allahabad, and whether the impugned order is passed by a competent authority.

7. Though the applicant relied upon the paper news issued by the Hindi Sahitya Sammellan dated 27.07.80 vide Annexure A/3 and also the Notification issued by the Rajasthan Government vide Annexure A/4 dated 13.5.74 in support of his contention that passing Prathma Examination of Hindi Sahitya Sammellan, Allahabad, is equivalent to Matriculation, the applicant has not produced any letter/notification issued by the Central Government, recognising the Prathma Examination as equivalent to Matriculation. The Rajasthan Government issued a Notification dated 13.5.74, recognising the Prathma Examination as equivalent to High School or Higher Secondary I year, and it is stated by the respondents that the said Notification was derecognised later. The fact that when he acquired the Certificate of Prathma in the year 1982, there was no notification either of the Central Government or State Government, recognising the Prathma Examination of Hindi Sahitya Sammellan, Allahabad, as equivalent to Matriculation and the burden is on the applicant to show that his passing Prathma Examination is equivalent to Matriculation and the same was recognised by the Central Government. Regarding the post under the Central Government, the applicant should substantiate his claim on the basis of the notification issued by the Central Government, but he failed to do so. In these circumstances, we have to hold that the Certificate of Prathma issued by the Hindi Sahitya Sammellan, Allahabad, was not the one recognised qualification for the purpose.

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of promotions from TCM Grade I to TCI Grade III and thereafter, TCI Grade II etc. Therefore, we have to hold that the applicant was not eligible for promotions as on the dates he got promotions.

8. Secondly, learned counsel for the applicant contended that the panel was approved by the General Manager and the said panel could not have been modified by the Divisional Railway Manager. But in our opinion, there is no substance in this argument. It is not the case of modification of the panel. But it is a case of holding a post for which the applicant was not qualified. The Divisional Railway Manager is the appointing and the promoting authority of the posts, which the applicant was occupying, is not disputed. If that is so, Divisional Railway Manager can say that the applicant was not qualified for these promotional posts and he was liable to be reverted. Therefore, the impugned order of reversion vide Annexure A/1, cannot be found fault with.

9. The last contention of the applicant was that the requisite qualification for promotion from TCM Grade I to the post of TCI Grade III was 8th standard, and he has passed the 8th standard after the impugned order was issued in the year 1996, therefore, the applicant may be given the benefit of the same. The respondents have not disputed that the required qualification was 8th standard for these two promotions in question. But the fact remains that the applicant was not having 8th standard qualification as on the date of his promotions in the two grades in question. In other words, he was not having 8th standard qualification in the year 1992 and 1993, when his promotions took place. But he acquired this qualification only in the year 1996. A person, for the purpose of promotions, should have acquired necessary qualifications as on the date of his promotion. His acquiring the requisite qualifications 2 years later, would not have any relevance. Therefore, the third argument advanced by the learned counsel for the applicant also deserves

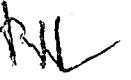
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rejection.

10. For the above reasons, we find that there are no merits in this application. Accordingly, we pass the order as under:-

"Application is dismissed. But in the circumstances,
without costs."


(N.P. NAWANI)
Adm. Member


(JUSTICE B.S. RAIKOTE)
Vice Chairman

CVR.