

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH,
JAIPUR

Date of decision: 1-11-1995

OA No.397/94

Akbar Hussain Siddiki

.. Applicant

VERSUS

Union of India and others

.. Respondents

CORAM:

HON'BLE O.P.SHARMA, MEMBER (A)

HON'BLE RATIAN PRADASH, MEMBER (J)

For the Applicant

.. Mr. S.K.Jain

For the Respondents

.. Mr. S.S.Hasan

ORDER

FOR HON'BLE MR. O.P.SHARMA, MEMBER (A)

In this application under section 19 of the Administrative Tribunals Act, 1985, Shri Akbar Hussain Siddiki has prayed that order dated 13-8-94 (Ann.A1) by which the name of the applicant was deleted from the panel of Apprentice Mechanic (Diesel Shop) against 15% quota for promotion, may be quashed and the applicant may be allowed to continue on the post of Chargeman-B as if the order Ann.A1 dated 13-8-94 had never been passed. He had further prayed that the applicant may be declared to have been promoted on the post of Chargeman-B scale of Rs. 1400-2300 on/regular basis.

2. It is not disputed by the learned counsel for the parties that the facts of the present OA are identical to those of OA No. 408/94, Sugan Chand Vs Union of India and others, which was disposed of by the Tribunal vide order dated 8-9-95. The applicant in OA No. 408/94 was also aggrieved by the order at Ann.A1 dated 13-8-94. By this order, the name of the

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applicant in CA No. 408/94 was deleted from the panel of Apprentice Mechanic. In the circumstances, without mentioning the facts of the present CA in detail, we dispose of the present CA after taking into account the directions which were given in CA No. 408/94.

3. In CA No. 408/94, the directions given by the Tribunal in Para 7 of its order dated 8-9-95 were as under:

"We have heard the learned counsel for the parties and have gone through the material on record. It is possible that the applicant did not secure the minimum qualifying marks in the written examination for being called for the interview. However, the subsequent developments cannot be ignored. After the applicant had appeared in the selection test and been informed that he had passed, he had appeared in the interview. Although he was not declared successful for inclusion in the select panel by the respondents yet subsequently the applicant's name was included in the select panel in place of another candidate. Thereafter, the applicant was sent for training, which he underwent for a period of two years. Now to go back to the situation, prior to the stage of training, inclusion of the name in interview and holding of the interview would amount to putting the clock back. The applicant, notwithstanding the fact that he may not have secured the minimum qualifying marks in the written examination for inclusion in the select panel of Apprentice Mechanic, had been sent for training by the respondents and had undergone the said training for a period of two years. We are of the view that if there was any deficiency in his qualification for being sent for training as Apprentice Mechanic, this will be cured by the applicant's training, if completed successfully. We do not consider it necessary to give a finding in the circumstances of the present case whether doctrine of estoppel would operate in this case but we hold that since the applicant was sent for training and has completed it, it is only fair that the retention test i.e. test to be conducted to find out whether the applicant had successfully completed the training, should be held now and if the applicant is found to have been passed the test securing the prescribed percentage of marks, he should be granted due benefits of such passing of the test as may be available to him in accordance with the rules. For this purpose, therefore, we quash Annexure A-1 dated 13-8-94 in so far as it deletes the name of the applicant from the panel."

4. An additional fact to be noted in respect of the applicant in the present CA is that after conclusion of the training for which the applicant had been sent,

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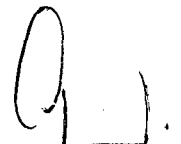
he was subjected to the final retention test and he in fact passed the said test as per Annexure-A7 in the present OA. His name appears at S.No. 4 of the said Annexure. After passing the said test, he has been given a regular appointment on the post of Chargeman-B scale Rs. 1400-2300. This order is dated 27-4-94 and the applicant has now worked on the said post for about 4½ years. In these circumstances, we direct that the applicant shall be treated as having been appointed on the post of Chargeman-B scale Rs. 1400-2300 on a regular basis. Order dated 13-8-94 in so far as it relates to this applicant is also quashed.

5. The OA is allowed accordingly with no order as to costs.



(Rattan Prakash)

Member (J)



(O.P. Sharma)

Member (A)