

CENTRAL ADMINISTRATIVE TRIBUNAL  
JAIPUR BENCH, JAIPUR

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ORDER SHEET

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ORDERS OF THE TRIBUNAL

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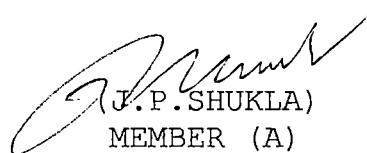
26.5.2008

OA 3/2008 with MA 153/2008

Mr.C.B.Sharma, counsel for applicant.  
Mr.Anupam Agarwal, counsel for respondents.

Though the matter was fixed for orders on 4.7.2008 but taken up today at the request of learned counsel for the parties.

Heard learned counsel for the parties. OA and the MA stand disposed of, at admission stage itself, by a separate order.



(J.P.SHUKLA)  
MEMBER (A)



(M.L.CHAUHAN)  
MEMBER (J)

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,  
JAIPUR BENCH, JAIPUR.

*Jaipur, the 26<sup>th</sup> day of May, 2008*

ORIGINAL APPLICATION NO.3/2008

With

MISC. APPLICATION NO.153/2008

CORAM :

HON'BLE MR.M.L.CHAUHAN, JUDICIAL MEMBER  
HON'BLE MR.J.P.SHUKLA, ADMINISITRATIVE MEMBER

Paras Ram,  
Carpenter under PWI (Construction),  
Sr.Section Engineer,  
West Central Railway,  
Kota Division  
Kota.

... Applicant  
(By Advocate : Shri C.B.Sharma)

Versus

1. Union of India through  
General Manager,  
West Central Zone,  
West Central Railway,  
Jabalpur.
2. Divisional Railway Manager,  
West Central Railway,  
Kota Division,  
Kota.
3. Deputy Chief Eninger (C),  
West Central Railway,  
Kota Division,  
Kota.

... Respondents  
(By Advocate : Shri Anupam Agarwal)

ORDER (ORAL)

PER HON'BLE MR.M.L.CHAUHAN

*Yog /*

The applicant has filed this OA thereby praying for the following relief :

"That the respondents may be directed to promote the applicant in Group-C cadre to the post of Carpenter Grade-III and further grades from the date junior so promoted with all consequential benefits."

2. In sum and substance, grievance of the applicant is regarding his promotion in Group-C category on the post of Carpenter Grade-III against 25% quota pursuant to the direction given by this Tribunal in OA 430/97, decided on 2.8.2000.

3. Notice of this application was given to the respondents, who have filed their reply. In the reply, the stand taken by the respondents is that the applicant being a substantive Group-D employee having his lien, as such cannot be promoted in Group-C without qualifying the requisite trade test. It is further stated that the only benefit allowed to the applicant was to protect his pay and allow him to work on the post of Carpenter till he is promoted in 25% quota. It is further stated that the Contempt Petition was dismissed because of the fact that no such selection has been carried out after the orders of this Tribunal. Thus, as per the respondents, the claim of the applicant is without any substance.

4. During pendency of this OA, the applicant has also filed MA 153/2008 for restraining the respondents to conduct selection to the post of Carpenter Grade-III. Alongwith this MA, the applicant has annexed copy of the notification dated 19.2.2008 (Ann.MA/1), whereby the respondents have taken steps to fill up three vacancies of Carpenter Grade-III against 25% quota. In view of the subsequent development, the respondents may consider his case for promotion without carrying out the selection as per notification dated 19.2.2008.

*also*

5. We have also given due consideration to the submissions made by the learned counsel for the

applicant that since the applicant has on earlier occasion qualified the trade test, as such he should have been promoted without advertising the post or insisting for fresh trade test. We are of the view that no relief can be granted to the applicant in this OA as the applicant has neither specifically pleaded nor he could have pleaded that subsequently the vacancies of Carpenter Grade-III have arisen and as such he should be promoted without any selection test as he has already qualified the trade test at an earlier occasion. Since the applicant has neither raised nor he could have raised this point in this OA, which was filed prior to issuance of the notification dated 19.2.2008 (Ann.MA/1), we are of the view that no relief can be granted to the applicant, at this stage, either in this OA or by way of the MA. However, it will be open for the applicant to raise the aforesaid contention in the subsequent OA.

6. With these observations the OA as well as MA shall stand disposed of with a liberty reserved to the applicant to file a substantive OA thereby raising the aforesaid contention. No order as to costs.

  
(J.P. SHUKLA)  
MEMBER (A)  
(M.L. CHAUHAN)  
MEMBER (J)

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