

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
JAIPUR BENCH, JAIPUR

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Date of Order : 01.06.2001.

O.A.NO. 297 OF 1995

1. R.K.Mahawar S/o Shri Nahnu Ram Mahawar, Aged about 34 years, R/o Nai Basti, Sigriya, Distt. Kota, Presently posted as T.C.M., in the Office of CTCI (M), Western Railway, Kota.
2. Amba Lal Meena S/o Shri Chaturbhuj Aged about 32 years, R/o Q.No. 305/B R.E, Type II, Railway Colony, Shamgarh, Distt. Mandsore, Presently posted as TCM, Shamgarh, Repeater, Distt. Mandsore, Western Railway.
3. Babu Lal Dholpuriya S/o Iarsaram aged about 32 years, R/o Q.No. 17/4 P.W.D.Colony, Vigyan Nagar, Kota, presently posted as T.C.M., Telecom Repair Centre, Western Railway, Kota.

.....Applicants.

VERSUS

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

.....Respondents.

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Mr. F.P.Mathur, Advocate, Proxy for  
Mr. R.N.Mathur, Counsel for the applicants.

None is present on behalf of the respondents.

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CORAM :

Hon'ble Mr.Justice B.S.Raikote, Vice Chairman  
Hon'ble Mr.Gopal Singh, Administrative Member

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ORDER

PER MR.GOPAL SINGH:

In this application under section 19 of the

*Gopal Singh*

Administrative Tribunals Act, 1985, applicants, R.K.Mahawar, Ambalal and Babulal, have prayed for a direction to the respondents to give promotion to them on the post of Telecommunication Maintainer (T.C.M.) Grade I on the basis of the trade test which was cancelled vide respondents letter dated 27.12.1993 (Annex.A/3).

2. Applicants' case is that they are holding substantively the post of T.C.M. Grade II and are entitled for promotion to the post of T.C.M. Grade I under the scheme of upgradation on the basis of restructuring implemented from 1.3.1993. The respondent-department had issued Notification dated 13.1.1993 (Annex.A/2) for filling up the post of T.C.M. Grade I. Applicants appeared in the trade test and were successful. The result of the trade test, wherein, the applicants had qualified, was cancelled vide respondents letter dated 27.12.1993 (Annex.A/3). Applicants represented against the same and also raised the matter through their Union. The Representation made by the applicants has been rejected by the respondents vide their letter dated 12.12.1994 (Annex.A/4), hence, this application.

3. In the counter, the averments made by the applicants, are denied by the respondents. It is pointed out by the respondents that the eligibility list for holding a trade test for selection to the post of T.C.M. Grade I in the pay scale of Rs. 1320-2040 was issued on 21.9.1994. The applicants, however, expressed their un-willingness to appear in the said trade test and, therefore, they could not be given the benefit of upgradation. The applicants cannot be now permitted to challenge the very holding of the trade

*Capel R. J.*

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test. It has also been pointed out that in the scheme of upgradation to the post of T.C.M. Grade I, was subject to qualifying in the trade test. It has also been pointed out that in terms of the Notification dated 13.1.1993, the process of filling up of posts of T.C.M. Grade I, was initiated. However, during the course of trade test, orders for re-structuring of Group 'C' and 'D' cadres, were received vide Hqs. letter dated 27.1.1993 and in terms of that letter the trade test for the post of T.C.M. Grade I was cancelled. Since the trade test was cancelled, there was no question of declaring the result of the same. Thus, it is wrong on the part of the applicants' to say that they have passed the said trade test. It is also pointed out by the respondents that in terms of the order dated 27.1.1993 and 22/23.4.1993, issued by the Western Railway Headquarters for re-structuring of the cadres, it has been clearly stated that for promotion in the skilled category, trade test is a must. The post of T.C.M. being in the skilled category, a trade test was organised. The contention of the applicants that they should not have been trade tested for promotion to the post of T.C.M. Grade I, is not tenable. The other allegations made by the applications against the respondents have also been denied by the respondents. It has, therefore, been averred by the respondents that the application is devoid of any merit and is liable to be dismissed.

4. We have heard the learned counsel for the parties and perused the record of the case carefully.

5. It is seen from the Railway Board's letter dated

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27.1.1993 on the subject <sup>of</sup> re-structuring of certain Group 'C' and 'D' cadres, that vacancies existing on 1.3.1993 were to be filled up from the panels approved on or before 1.3.1993 and current on that date and the balance through a modified selection procedure. It is also provided in the letter dated 27.1.1993 that such selections which have not been finalised by 1.3.1993, should be cancelled/abandoned. It is a fact that the selection initiated by the respondents vide Notification dated 13.1.1993, had not been finalised till 1.3.1993 and accordingly, the same was cancelled. Thus, there is no infirmity in the action of the respondents in cancelling this selection. The contention of the applicants that they had passed this selection, is of no avail and cannot be relied upon since the result of the selection was never declared. The other contention of the applicants that they should have been promoted under the upgradation scheme effective from 1.3.1993, on the basis of modified selection procedure, it has been pointed out by the respondents that in terms of orders dated 27.1.1993 and 22/23.4.1993, issued by the Western Railway Headquarters, a trade test for promotion in the skilled category is a must. They have, however, not brought on record any document providing for such a trade test under the scheme of re-structuring/up-gradation. The question of promotion under the re-structuring scheme to the post of E.S.M. Grade I in the Artisan category, had come up earlier before this Bench in O.A. No. 542/1993 decided on 26.7.1995. In its order dated 26.7.1995 passed in O.A.No. 542/1993 (Mohd.Idoo and Anr. Vs. UOI & Ors), this Tribunal has held as under :-

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"6. In the circumstances, we hold that the applicants are entitled to promotion or upgradation or restructuring, in terms of the Railway Board's order Ann.A2 dated 27.1.93, without holding of the trade test. The respondents are directed to take necessary follow-up action without insisting upon the applicants appearing in the trade test, within a period of 4 months from the date of the receipt of a copy of this order."

6. We are of the view that the present case is squarely covered by order dated 26.7.1995 passed in O.A.No. 545/1993. Accordingly, for the detailed reasons recorded in the order dated 26.7.1995 passed in O.A.No. 542/1993, we pass the order as under :-

"In the circumstances, we hold that the applicants are entitled to promotion or upgradation or restructuring, in terms of the Railway Board's Order dated 27th January, 1993, without holding of Trade Test. The Respondents are directed to take necessary follow-up action without insisting upon the applicants appearing in the Trade Test, within a period of four months from the date of receipt of a copy of this order."

7. The Original Application is disposed of accordingly with no order as to costs.

  
(Gopal Singh)  
Adm.Member

  
(Justice B.S. Raikote)  
Vice Chairman

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