

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

R.A.No.56/95

Date of order: 17.10.1995

Union of India & Ors. : Applicants

Vs.

Mohd.Idoo & Anr. : Respondents.

CORAM:

Hon'ble Mr.O.P.Sharma, Member(Adm)

Hon'ble Mr.Ratan Prakash, Member(Judl)

PER HON'BLE MR.O.P.SHAFMA, MEMBER(ADM.).

This Review application has been filed by the Union of India through General Manager, W.Ply, Bombay, Divisional Railway Manager, Kota Division and Senior Divisional Signal Telecommunication Engineer(M), Kota Division, who were respondents in O.A No.542/93, Mohd.Idoo & Anr. Vs. Union of India & Ors. Review has been sought of order dated 26.7.95 passed in the said O.A. While disposing of the Review Application, the Tribunal had held that the applicants were entitled to promotion or upgradation or restructuring, in terms of the Railway Board's order Anxx.A2 dated 27.1.1993 without holding of the trade test. The respondents were 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 the Tribunal's order.

2. In the Review Application, the Union of India & Ors. mentioned above have stated that the Tribunal has misinterpreted the circular dated 27.1.'93 by which while granting promotion by restructuring, only written and viva voce test were dispensed with. The parties seeking the review have referred to another circular issued on 15.3.1993 placed with the Review Application as Anxx.A2, wherein instructions were issued regarding the action to be taken to expedite the implementation of cadre restructuring. The relevant

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instructions are as under:

"(i) CRs for the year ending 31.3.92 should be completed wherever pending.

(ii) Promotion under cadre restructuring in skilled category will be based on Trade Test. Since large number of staff will be involved, it will be necessary to draw a crash programme for conducting the trade tests and completion of these within the shortest possible time.

(iii) Pending seniority disputes and DAP appeals should be finalised immediately."

Thus the requirement of trade test was not dispensed with and what was dispensed with was only the written test and viva voce. According to the parties seeking the review, trade test is not a part of the selection test. These are two different things, and an employee is trade tested to know whether he can perform the duties of a particular post. They have accordingly stated that the view taken by the Tribunal that the original applicants be promoted without holding the trade test is a mistake apparent from the records which deserves to be rectified in the interest of justice. Accordingly, a review of the order passed on 26.7.95 has been sought.

3. We have carefully gone through the records as also the submissions made in the Review Application and have also gone through Annx.A2, now filed with the Review Application. The relevant instructions contained in Annx.A2 dated 27.1.93, which was part of the Original Application are as under:

"4. The existing classification of the posts covered by these restructuring orders as selection and nonselection as the case may be remain unchanged. However, for the purpose of implementation of these orders, if an individual railway servant becomes due for promotion to a post classified as a selection post, the existing selection procedure will stand

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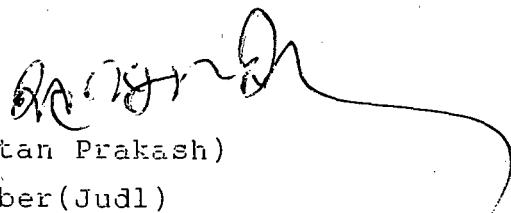
modified in such a case to the extent that the selection will be based only on scrutiny of service records and confidential reports without holding written or *viva voce* test. Similarly for posts classified as non-selection at the time of this restructuring the same procedure as above will be followed. Naturally under this procedure the categorisation as outstanding will not figure in the panels. This modified selection procedure has been decided upon by the Ministry of Railway as a one time exception by special dispensation, in view of the numbers involved, with the objective of expediting implementation of these orders."

There is no mention in the above instructions that trade test would, however, be held. Had it been the intention of the Railway Board to provide that trade test has not been dispensed with, it would have been so stated in the above instructions, which give a clear impression that selection for restructuring would be based only on scrutiny of service records and Confidential Reports. The instructions Anxx.A2 dated 15.3.93 which have been annexed with the Review Application were not presented by the respondents as part of the reply to the O.A, although it was no doubt stated in the reply that trade test had to be held for promotions based on restructuring. However, the averment that trade test had to be held was not backed by any instructions issued by the Railway Board or by any authority. The parties seeking the review have not at all stated in the Review Application ^{why} ~~why~~ they could not produce the instructions dated 15.3.93 (Anxx.A2) at the time of hearing of the O.A.

4. In these circumstances, we are of the view that there was no mistake apparent from the record in the order passed by the Tribunal. The parties seeking review have not been able to show that the new material sought to be brought on record now

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for seeking a review of the earlier order passed in the O.A. could not be produced earlier in spite of due diligence on the part of the parties seeking a review. No review of the order passed earlier in the O.A. can be made in view of the provisions of Order XXXVII Rule 1^b. The Review Application is, therefore, rejected in limine.



(Ratan Prakash)
Member (Judl)



(O.P. Sharma)
Member (Adm)