

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH,

JAIPUR

Date of order: OA, OA, 02.

OA No.87/1996

Shakti Bali s/o Shri Scmdatt Bali r/o 3-Ka-3, Jawahar Nagar, Jaipur, presently posted as Chief Booking Clerk in the office of Divisional Railway Manager, Western Railway, Jaipur.

..Applicant

Versus

1. Union of India through General Manager, Western Railway, Churchgate, Bombay.
2. Railway Recruitment Board through its Secretary, Rail Bhawan, New Delhi.
3. Divisional Railway Manager, Western Railway, Jaipur.

.. Respondents

Mr. P.P.Mathur, counsel for the applicant

Mr. K.S.Sharma, counsel for the respondents

CORAM:

Hon'ble Mr. H.O.Gupta, Member (Administrative)

Hon'ble Mr. J.K.Kaushik, Member (Judicial)

ORDER

Per Hon'ble Mr. H.O.Gupta, Member (Administrative)

The applicant is aggrieved of his absorption on to the post of Chief Booking Clerk instead on to the post of Commercial Inspector. In relief, he has sought appropriate directions to absorb him on to the post of Commercial Inspector w.e.f. 20.4.1994.

2. The case of the applicant as made out, in



brief, is that:-

2.1 The Railway Recruitment Board vide notification dated 23.9.1989 invited applications to fill in the vacancies of Commercial/Traffic Apprentices in the pay scale of Rs. 1600-2660. Having successfully qualified the competitive examination, his name was recommended by the Railway Recruitment Board and he was appointed as Commercial Apprentice vide order dated 11.2.1992 in the pay scale of Rs. 1600-2660. After completion of training on 20.4.94, he was appointed to the post of Chief Booking Clerk vide office order dated 11.8.94 (Ann.A2). His name, as per recommendations of the Railway Recruitment Board, was at Sl.No.1 in the order of merit whereas after training his name was placed at Sl.No.2 in the order of merit. He was given appointment by the order passed by the Divisional Railway Manager, Bombay Central. He was thereafter transferred on his own request in the post of Chief Booking Clerk pay scale Rs. 1600-2660.

2.2 He submitted a representation dated 12.8.1994 (Ann.A3) seeking posting as Commercial Inspector. The Chief Commercial Manager of the Western Railway issued an order that he and other Commercial Apprentices be appointed to the post of Commercial Inspector. However, in order to favour certain persons in appointment on the post of Commercial Inspector, he alongwith other persons were absorbed in the post of Chief Bocking Clerk.

2.3 Vide circular dated 15.5.1987, it has been provided that Commercial and Traffic Apprentices should be given wide exposure after posting and the Commercial Apprentices should be exchanged from one stream to another stream and avenues of promotion should be recasted in the

scale of Rs. 2000-3200 and above. In Para 130 of the Indian Railway Establishment Manual (IREM), avenues of promotion in the scale of Rs. 2000-3200 and Rs. 2375-3500 are available to Commercial Apprentices. However, in Para 128 of the IREM, avenues of promotion to the post of Chief Booking Clerk are available in the scale of Rs. 2000-3200 only. Thus, there is discrepancy in Para 128 and 130 of the IREM.

2.4 The main grounds taken by the applicant are that the respondents have committed illegality in not giving appointment on the post of Commercial Inspector and thereafter on to the post of Senior Commercial Inspector. They ought to have distributed the vacancies of 15% quota provided in Para 130 of the IREM to all the categories particularly when the vacancies exist. The respondents have denied him avenue of promotion in the pay scale of Rs. 2375-3500 in accordance with Para 130 of the IREM by absorbing him as Chief Booking Clerk instead as Commercial Inspector.

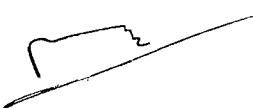
3. The respondents have filed reply and denied the various contentions of the applicant. It has been stated that the vacancies were not specified. The 15% vacancies cannot be filled up in all categories of Commercial Apprentices. The applicant is not entitled to be promoted in the pay scale of Rs. 2375-3500. Para 130 of the IREM has to be read with Para 128 of the IREM under which employees are eligible to get the promotion in their own cadre scales. The respondents have also taken the plea of limitation.



4. The applicant has filed rejoinder. Briefly stated, he has submitted that there were vacancies available in the grade of Commercial Inspectors but due to pressure of Unions the respondents did not fill up the vacancies. He submitted his first representation on 12.8.94 and thereafter through Unions. He was waiting for the reply, which they failed to give and thereafter he filed this OA in February, 1996 after having waited for 6 months and within one year thereafter and, therefore, this OA is not barred by limitation.

5. Heard the learned counsel for the parties and perused the record.

6. It is an admitted fact that the applicant, based on his selection through the Railway Recruitment Board, was appointed to undergo a training for two years as Commercial Apprentice in the pay scale of Rs. 1600-2660 and after completion of training successfully he was absorbed in the same pay scale on the post of Chief Booking Clerk. The main contention of the learned counsel for the applicant, during his arguments, was that the applicant was not absorbed as Commercial Inspector when there were clear vacancies. Based on his merit position, he should have been absorbed as Commercial Inspector. The promotion prospects of Chief Booking Clerk are limited only to the next higher pay scale of Rs. 2000-3200 whereas the Commercial Inspector after his promotion in that pay scale of Rs. 2000-3200 also have promotion avenues to the grade of Rs. 2375-3500. His contention is that when the vacancies in the post of Commercial Inspector were

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available, his absorption on the post of Chief Booking Clerk has reduced his promotion prospects. The learned counsel for the respondents was not able to confirm whether there were vacancies of Commercial Inspector and, if so, why were they not filled up from amongst the Commercial Apprentices who completed the training. Be that as it may, the factum is that none of the candidates, who completed training as Commercial Apprentice, was appointed as Commercial Inspector. If the respondents chose not to fill up the vacancies of Commercial Inspector for their own reasons, we do not think that the action of the respondents can be said to be illegal, moreso when the initial appointment was as Commercial Apprentice, there was no mention of vacancies in the notification and none of the applicant's batch was absorbed as Commercial Inspector. The applicant has no legal claim for absorption against the vacancies of Commercial Inspector, even if they were available and the respondents decide not to fill them. The applicant also cannot have a right for absorption in a cadre having better promotion prospects. In the circumstances, we do not think that any judicial interefere is called for in this case. Accordingly, this OA is dismissed without any order as to costs.

J.K. KAUSHIK

(J.K. KAUSHIK)

Member (Judicial)

H.O. GUPTA

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Member (Administrative)