

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

O.A. No.271/96

Date of order: 3/11/2001

Giriraj Prasad M, S/o Shri Murari Lal Sharma, R/o Plot No.5, Nasiya Colony, Shastri Park, Gangapur city, Sawai Madhopur, working as Fitter Gr.II, W.Rly, Kota.

...Applicant.

Vs.

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

...Respondents.

Mr.P.P.Mathur, Proxy of Mr.R.N.Mathur - Counsel for applicant  
Mr.Manish Bhandari - Counsel for respondents.

CORAM:

Hon'ble Mr.S.K.Agarwal, Judicial Member

Hon'ble Mr.Gopal Singh, Administrative Member.

PER HON'BLE MR.S.K.AGARWAL, JUDICIAL MEMBER.

In this Original Application filed under Sec.19 of the Administrative Tribunals Act, 1985, the applicant makes the following prayers:

- i) to direct the respondents to give appointment to the applicant on the post of TXR in pursuance of notification dated 6/12.7.95 and direct the respondents to include the name of the applicant in the panel dated 18.4.96 (Annx.A1).
- ii) to direct the respondents not to reject the name of the applicant on the ground that the applicant does not have the necessary educational qualification of Matric and
- iii) to direct the respondents to give all consequential benefits of seniority, pay and other benefits on the post of TXR considering that the name of the applicant was included in the panel dated 18.4.96.

2. Facts of the case as stated by the applicant are that respondent No.2 issued notification dated 6/12.7.95 inviting

applications for appointment on the post of TXR scale 1400-2300 against 20% quota reserved for Intermediate Apprentice. Four vacancies were notified for the employees working in the Carriage & Wagon Deptt as Skilled Artisan and out of 4 posts 3 posts were for General category and one for ST candidates. It is stated in the notification that the candidate must be matriculate and put in 3 years service on 21.6.95 and he should be below 45 years of age on 21.6.95. It is stated that the applicant was initially promoted to Skilled Artisan on 27.7.87, therefore, he was having the requisite experience of 3 years and he was below the age of 45 years. It is further stated that the applicant appeared in the Matric examination in the year 1994 and he was given chance for appearing in supplementary examination in English & Mathematics subjects. The applicant eventually qualified the examination in the year 1995 and certificate to this effect was issued on 25.6.95. The applicant while filling the application form made it clear that he has qualified the secondary examination and submitted the copy of certificate dated 25.6.95. In the list dated 23.8.95, issued by respondent No.2, name of the applicant was shown as eligible candidate. Thereafter, the respondents allowed the applicant to appear in the examination and qualified the written test and was called for interview. The applicant appeared before the Interview Board but respondent No.2 have only included three names in the panel/result and the fourth post kept vacant. Applicant approached the office of respondent No.2 but he was informed that he was not having the matriculation qualification on 21.6.95, therefore, his candidature was cancelled. It is stated that there was no justification/reason to say that on 21.6.95 the applicant was not having the requisite qualification for the post. It is stated that the cancellation of the candidature of the

applicant on the ground that he do not possess the requisite qualification is illegal, arbitrary and in violation of Articles 14, 16 and 21 of the Constitution. Therefore, the applicant filed the O.A for the relief as mentioned above.

3. Reply was filed. In the reply, it is stated that the applicant has passed Matriculation on 25.6.95, therefore, he was not eligible on 21.6.95 for selection on the post of TXR, as mentioned in the notification. It is also stated that initially the applicant was allowed to appear in the selection on the basis of information given by him but subsequently on scrutiny it was found that on 21.6.95, the applicant was not eligible to appear in the examination, therefore, the result of the applicant was not declared. Therefore, it is stated that the applicant has no case for interference by this Tribunal and this O.A devoid of any merit is liable to be dismissed.

4. Rejoinder and reply to rejoinder has also been filed which is on record.

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

6. It is a settled legal position that if cut off date is laid down in the relevant rules it has to be followed for determination of eligibility and if no such date is prescribed in the rules then eligibility has to be determined on the basis of conditions as published in the advertisement and if nothing is mentioned in the advertisement, eligibility has to be determined as on the last date of receipt of the applications.

7. In Bhupinderpal Singh & Ors Vs. State of Punjab & Ors, 2000 SCC (L&S) 639, Hon'ble Supreme Court after considering the law laid down by different High Courts and the Apex Court on this point, held that if cut off date is laid down in the

relevant rules it has to be followed for determination of eligibility and if no such date is prescribed in the rules then eligibility has to be determined on the basis of conditions as published in the advertisement and if nothing is mentioned in the advertisement, eligibility has to be determined as on the last date of receipt of the applications. In the instant case, it is not disputed that the applicant was having 3 years or more experience on 21.6.95 as Skilled Artisan. It is also not disputed that the applicant was less than 45 years of age on 21.6.95. In the notification dated 6/12.7.95, a copy of which is annexed with the O.A as Annx.A2 states as under:

कर्मचारी निम्न शर्तें पूरी करते हों वही आवेदन करें ।  
आवेदक मैट्रिक पास हो एवं कुशल ग्रेड में 3 वर्ष की सेवा दि. 21/6/95 को पूरी करती हो ।

दिनांक 21/6/95 को आवेदक की आयु 45 वर्ष से कम हो ।

In this notification a specific cut off date is only pertaining to the experience and maximum age but no specific cut off date has been mentioned regarding qualification. Moreover no rules regarding cut off date has been shown to us.

7. Admittedly, the applicant was eligible to appear in the said examination on the last date of receipt of the application i.e on 27.7.95, therefore, looking to the settled legal position as above, we are of the opinion that the candidature of the applicant should not have been cancelled only on the ground that he was not having the requisite qualification on 21.6.95. The applicant was only required to have the qualification of matriculation on the last date of receipt of the application i.e. on 27.7.95 but not on 21.6.95. It is also important to mention here that the applicant was allowed to appear in the said examination in spite of his mentioning the fact in the application form and he was also allowed to appear before the Interview Board but later on the

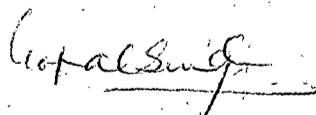
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candidature of the application was cancelled on the ground that he was not eligible to appear in the said examination on 21.6.95. The view taken by the department appears to be contrary to the settled legal position and we are of the considered opinion that as there is no specific averment in the notification regarding the cut off date of qualification, therefore, according to the settled legal position, the candidature of the applicant should have been considered on the basis of last date of receipt of the application i.e. 27.7.95.

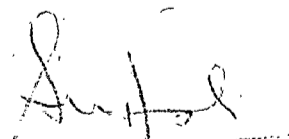
8. In the instant case on 27.7.95, admittedly the applicant was having the qualification of matriculation, therefore, on the basis of the facts and settled legal position as mentioned above, we are of the considered opinion that the name of the applicant should have been included in the panel dated 18.4.96 prepared for the selection on the post of TXR and candidature of the applicant should not have been rejected only on the ground that on 21.6.95 the applicant was not eligible to appear in the said examination for promotion on the post of TXR.

9. We, therefore, allow the O.A and direct the respondents to include the name of the applicant in the panel dated 18.4.96 (Annx.A1) to appoint the applicant on the post of TXR in pursuance of the notification dated 6/12.7.95. The applicant is also entitled to all consequential benefit considering that name of the applicant was included in the panel dated 18.4.96.

10. No order as to costs.

  
(Gopal Singh)

Member (A).

  
(S.K. Agarwal)

Member (J).