

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH : JAIPUR

date of order : 12.1.2005

O.A. No. 33/96

Jagdish Prasad Attal son of Shri Prabhati Lal Attal, aged about 31 years, by caste Raigar, resident of Bhampur Kala, via - Amer, District Jaipur (Rajasthan), presently working as Khallasi, Senior Electrical Foreman (T.L.), Western Railway, jaipur (Rajasthan).

... Applicant.

v e r s u s

1. The Union of India through General Manager, Western Railway, Church Gate, Bombay.
2. The Divisional Railway Manager, Western Railway, Jaipur Division, Jaipur.
3. The Divisional Electrical Engineer (Estt.). Western Railway, Jaipur Division, Jaipur.

... Respondents.

Mr. S.D. Sharma, Advocate, Brief holder for Mr. R.D. Tripathi, Counsel for the applicant.

Mr. Hemant Gupta, Advocate, Brief holder for Mr. M. Rafiq, Counsel for the respondents.

CORAM

Hon'ble Mr. Justice B.S. Raikote, Vice Chairman

Hon'ble Mr. N.P. Nawani, Administrative Member

: ORDER:

(Per Hon'ble Mr. Justice B.S. Raikote)

This application is filed under Section 19 of the Administrative Tribunals Act, 1985, for a declaration that the applicant is entitled for appointment on the post of Electrical Fitter against the remaining/unfilled vacancies or 25% quota as notified in the Notice dated 31.05.93 (Annexure A/4) with effect from the date the persons named in the letter dated 28.11.94 (Annexure A/13), are appointed. He also prayed for a direction to the respondents to consider the candidature of the applicant for appointment to the post of Electrical Fitter via written test/interview with effect from the date the persons appointed vide Annexure A/13, with the seniority just below them.

2. The applicant contended that at the relevant point of time, he was working as Khallasi and he has passed the Prathma Examination from Hindi Sahitya Sammellan, Allahabad (Hindi University), and the said Examination was recognised as equivalent to Matriculation. The applicant also underwent a training at Industrial Training Institute Jaipur from 1981 to 1983 in the trade of Wireman and passed the trade test in the month of February, 1984. But meanwhile, the applications were invited for appointment as Apprentice Electrical Fitter under the 25% quota of the Skilled Artisans post to be filled in from the rankers working on Class IV (Group 'D') post, vide Annexure A/4. The applicant has the requisite qualifications for being appointed as Apprentice Electrical Fitter. But the applicant was not called for taking necessary test for the post of Apprentice Electrical Fitter only on the ground that he did not possess the necessary qualifications. Then he made a representation to consider his case to the authorities. The applicant also stated that the

respondent No. 3 amended paras 4 and 5 of the Annexure A/4 vide letter dated 23.11.93 and prescribed totally a new set of qualifications, i.e., Matriculation in Science with Physics and Chemistry or equivalent thereto or 10th class from 10+2 scheme with science one of the subjects. Copy of the said letter is annexed as Annexure A/8. Accordingly, the respondents demanded a certified copy of the marksheets of 10th class vide Annexure A/9. Vide letter dated 4.7.94, the respondent No.3 declared 5 persons as eligible to sit in the written test and did not include the name of the applicant in the said letter. Vide letter dated 26.08.94, the written test was fixed on 19.09.94 and the interview was held on 15.11.94. Thereafter, the result of the selected 4 candidates for training as Electrical Fitter was issued vide letter dated 28.11.94. Thereafter, the applicant also made a representation on 1.2.94 to consider his case also. But he was informed that the qualification prescribed was valid for such selection. It is, in these circumstances, the applicant filed the present application. The learned counsel for the applicant strenuously contended that the prescribed qualification of 10th class with Science subject vide Annexure A/8 is illegal. At any rate, the applicant has passed Prathma Examination from Hindi Sahitya Sammellan, which is equivalent to 10th class. Therefore, the applicant should have been called for in the written test and viva voce for the purpose of selection to the Apprentice Electrical Fitter under 25% quota. Hence, action of the respondents in selecting some other persons as Apprentice Electrical Fitter is illegal and without jurisdiction. Therefore, necessary direction may be issued.

3. By filing counter, the respondents denied the case of the applicant. It is contended that since the applicant was not a Matriculate with Science & Physics, he was not eligible for the post in question. Therefore, he was not called for the written test for the purpose of selection as Apprentice Electrical Fitter. Those persons who were qualified, passed the necessary test and they were selected.

4. From the above controversy, the short point arises for our consideration would be whether the applicant's passing Prathma Examination from Hindi Sahitya Sammellan, Allahabad, is equivalent to Matriculate or not. The applicant has not produced any notification showing that said Prathma Examination is equivalent to Matriculation. In that view of the matter, the applicant did not fulfil the requisite qualification for consideration on the post in question. Even it is assumed that the Prathma Examination is equivalent to Matriculation, still the applicant cannot fulfil the qualification, since he had not passed the said Examination with Science and Physics as one of the subjects. Viewed from many angles, we do not find any merit in this application. It is always for the authority to prescribe the necessary qualification, who and other persons / fulfilled that qualifications were selected. But the applicant has not made those selected candidates as party in this case. Therefore, the applicant is not entitled to any relief. The selection of the candidates cannot be set aside without making them parties, even if we hold the contention of the applicant that he was eligible. Moreover, the appointment was only within the quota of 25 % of the posts, i.e., Apprentice Electrical Fitter. The applicant has not demonstrated

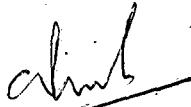
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that he falls within that 25% quota, as per the eligibility and seniority, for such selection. Even in the relief prayer, the applicant prays that there should be a direction to the respondents to consider the applicant in the remaining unfilled vacancies of 25% quota. Here also, we do not know whether any post remains at all under that quota as there is no material available on record as to the number of posts and how many posts ~~there~~ was constituted ^{under 25% quota.} The learned counsel for the applicant relied upon Annexure A/22 dated 1.10.92, contending that in Ajmer Division, simply the qualification of 'Matriculation' was prescribed for the purpose of promotion to the Skilled Artisan under 25% quota. Therefore, Jaipur Division and the Ajmer Division cannot follow the different standards for such selection. This argument also does not help the applicant for the simple reason that the Ajmer Division vide letter dated 1.10.92 prescribed the qualification simply 'Matriculation' or equivalent thereto with 2 years or 3 years course in Airconditioning and Refrigeration from ITI or from any other equivalent Institution. The different qualifications and standards could be prescribed for different posts, and that was the qualification prescribed to the post of Skilled Artisans. In the instant case, the post involved is Apprentice Electrical Fitter. Therefore, the qualification prescribed in Ajmer Division for the purpose of promotion to the Skilled Artisan, would not be relevant for the post in question, which is Apprentice Electrical Fitter. Therefore, Annexure A/22 also does not support the case of the applicant.

5. Thus, we have considered the entire case, and we find that absolutely, there are no merits in this case.

Accordingly, we pass the order as under:-

"Application is dismissed. But in the circumstances,
without costs."


(N.P. NAWANI)

Adm. Member


(JUSTICE B.S. RAIKOTE)

Vice Chairman