

Mahaveer Prasad, S/o Bala Ram, R/o Kota, at present employed on the post of Electrical Fitter Grade II in Kota Division, Western Railway, Kota.

...Applicant.

Vs.

1. Union of India through General Manager, Western Railway, Churchgate, Mumbai.
2. Senior Divisional Technical Engineer (Establishment) Western Railway, Kota Division, Kota Junction.
3. Chief Project Manager(E), Railway Electrification, Kota Division, Kota Western Railway.

...Respondents.

Mr. Shiv Kumar - Counsel for applicant.

~~Mr. M. Bhandari~~ for respondents.

CORAM:

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

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

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

In this Original Application under Section 19 of the Administrative Tribunals Act, 1985, the applicant makes a prayer to modify the impugned notification dated 10.7.1997 by deleting the name of applicant and to exempt the applicant from appearing in trade test for the post of Electrical Fitter Grade-II and to consider him for promotion on the basis of seniority when his turn comes.

2. The case of the applicant is that while he was working on the post of Electrical Fitter H.S. Grade-II at Kota, he passed the trade test for the post of Electrical Fitter Gr.II & Gr.I in the year 1987. Thereafter he was sent back in the Division and his name has been shown in the seniority list dated 17.2.95. It is stated that the respondents has issued notification dated 10.7.97 for conducting trade test for the post of Electrical Fitter Gr.II. The applicant protested against the said notification and filed a representation stating that the applicant need not appear in the trade test again as he has already passed the same. It is stated by the applicant that he is due for the promotion and as per rule, he is required to be considered for promotion on the basis of seniority. Therefore compelling the applicant for appearing the trade test again is illegal and arbitrary.

2. Counter was filed. In the counter it has been stated that the applicant was sent on deputation to Railway Electrification thus passing trade test while on deputation has no

(9)

bearing on the present department and protest of the applicant against the notification dated 10.7.97 was without any basis. Therefore, this O.A is devoid of any merit and the same is liable to be dismissed.

4. Heard the learned counsel for the applicant and also perused the written submissions filed by the counsel for the respondents.

5. It is not disputed that the applicant passed the trade test for the post of Electrical Fitter Gr.II in the year 1987 when he was posted as Electrical Fitter (H.S.II), Kota, which is evident from the perusal of Annx.A3.

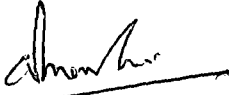
6. Rule 226 of the IREM Vol.I reads as under:


"Staff who have already qualified in the suitability/ trade test for non-selection post while in construction/Railway Electrification Project need not be subjected to such test on the open line and they may be promoted on the basis of their seniority as and when due in term. This concession is applicable in comparable trades only in which ~~from~~ the lien of the individual is kept on the open line and is applicable to only one grade higher than in which the lien is kept."

7. On the perusal of the above rule, it is abundantly clear that a person who has already qualified, the trade test need not be subjected to such trade test again and he should be promoted on the basis of his seniority. This rule does not provide at all that passing of trade test while on deputation has no bearing on the parent department, therefore, the impugned notification dated 10.7.97 needs modification so far as deleting the name of the applicant is concerned and the applicant is entitled to the relief sought for.

8. We, therefore, allow this O.A and direct the respondents to delete the name of the applicant from the said notification dated 10.7.97 on the ground that the applicant has already passed the trade test for the post of Electrical Fitter Gr.II and I. We also further direct the respondents to consider the applicant for promotion on the basis of his seniority when his turn comes.

9. No order as to costs.

  
(N.P.Nawani)  
Member (A).

  
(S.K.Agarwal)  
Member (J).