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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

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Date of Decision: 15.9.2000

OA 98/98

Bhoor Singh, Helper Khalasi, Ticket No.69188/21, Electrical Wing, Diesel Workshop, Ajmer.

... Applicant

V/s

1. Union of India through General Manager, W/Rly, Churchgate, Mumbai.
2. Chief Works Manager, Loco Workshop, W/Rly, Ajmer.
3. Works Manager (Diesel), Loco Workshop, W/Rly, Ajmer.
4. Dy Chief Mechanical Engineer (Loco), Loco Workshop, W/Rly, Ajmer.
5. Sh.Om Dutta
6. Sh.Narpat Singh
7. Shri Chhouthmal
8. Shri Kanwar Singh
9. Shri Jeet Kumar
10. Shri Bhagwandas
11. Shri Anil Kumar
12. Shri Iliaj Hussain
13. Shri Shakti Ali
14. Shri Nageshwar Narain
15. Shri Vishan Gopal
16. Shri Narendra Kumar

Above Sl.No.5 to 16 are working as Electrical Fitter Grade-II, Diesel Loco Workshop, W/Rly, Ajmer.

... Respondents

CORAM:

HON'BLE MR.JUSTICE B.S.RAIKOTE, VICE CHAIRMAN

HON'BLE MR.N.P.NAWANI, ADMINISTRATIVE MEMBER

For the Applicant ... Shri P.K.Tripathi

For the Respondents ... ---

O R D E R

PER HON'BLE MR. J JUSTICE B.S. RAIKOTE, VICE CHAIRMAN

This application ^{is} /filed for the following reliefs :-


- "a) The applicant prays that the Hon'ble Tribunal be pleased to issue appropriate writ, direction or order to the respondents to treat the applicant as regularly promoted as Fitter Gr.III pay scale Rs.950-1500 from 23.4.87 and the respondents be ordered to fix his pay accordingly and pay arrears.
- b) ~~be~~ The Hon'ble Tribunal be pleased to issue appropriate writ, direction or order compelling the respondents to fix the seniority of the applicant as ~~the~~ Fitter Gr.III pay scale Rs.950-1500 as on 23.4.87 on & above the name of respondents No.5 to 16 and promoting the applicant to the non-selection post of Fitter Gr.II pay scale of Rs.1200-1800 and grant further promotions.
- c) The Hon'ble Tribunal be please to issue appropriate writ, direction or order compelling the respondents No.1 to 4 to pay consequential arrears with interest @ 18% p.a.
- d) Cost of the petition, and
- e) Any other or alternative relief as may be deemed just & expedient by the Hon'ble Tribunal in the facts & circumstances of the case of the applicant."

2. In support of the above reliefs, the applicant has contended that he was entitled to promotion for the post of

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Electrical Fitter Grade-III in the pay scale of Rs.950-1500 w.e.f. 23.4.87. It is submitted by the applicant that ~~he~~ in the year 1987 he took the necessary trade test for promotion to the post of Fitter Grade-III from the post of Helper Khalasi but he was not declared successful and even ~~x~~ his ^{physical and mental} fitness for the post was not considered at that time. In those circumstances, the applicant filed OA 209/88 (renumbered as OA 714/92) contending that the applicant should be declared successful in the said trade test he had taken in the year 1987 and he should be treated as medically fit to hold that post. In that OA, the contention of the applicant was ^{partly} accepted and this Tribunal directed for constitution of Medical Board for examination of the applicant about his fitness ^{and} ~~by~~ furnishing report of the said Medical Board to the applicant, and accordingly the OA was disposed of. In pursuance of the said direction, the authorities issued the endorsement dated 25.9.96 stating that on the basis of the records after consideration the applicant's result stood as it was in the year 1987. This order the applicant has filed at Annexure A/1. The applicant though specifically did not challenge



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Annexure A/1 but he has noted the same in the body of his application as illegal. The applicant also brought to our notice Annexure A/6, the opinion of the Board constituted as per the direction of this Tribunal, stating that the applicant was examined on 24.7.96 at the Railway Hospital Ajmer and the Board is of the opinion that the applicant is psychiatrically normal and fit. The applicant on the basis of this pleading contends that he should be treated as promoted w.e.f. 1987 on the basis of the opinion of the Doctor of the Medical Board. Therefore, he is entitled for all the reliefs of Fitter Grade-III w.e.f. 23.4.87.

3. From the facts narrated by the applicant it is clear that the applicant was working as Helper Khalasi and he appeared for tests for the purpose of promotion to the post of Fitter Grade-III in the year 1987 but he was declared as failed both on the basis of his performance ~~and~~ as well as on the basis of medical fitness. The applicant challenged those proceedings before this Tribunal mainly contending that he was medically fit and his case should have been considered for promotion to the next

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higher post of Electrical Fitter Grade-III. This Tribunal directed the respondents to constitute a Medical Board and on the basis of the opinion of the Medical Board the matter could be ^{re}considered regarding applicant's taking the test in the year 1987. In compliance of the order of this Tribunal, the respondents have issued an endorsement dated 25.9.96 stating that as per the direction of this Tribunal, passed in OA 714/92 vide judgement and order dated 24.1.94, a Medical Board was constituted and ~~subsequently~~ accordingly the applicant was examined on 24.7.96 and the Board gave his report and on the basis of the said report the result of the applicant in the trade test in the year 1987 was reconsidered and ultimately it was found that the result of the trade test remained the same as it was earlier communicated to the applicant. In other words, ~~in~~ vide Annexure A/1 dated 25.9.96 the applicant was informed his result as it was in the year 1987 stood as per the revaluation. If the result of the applicant remained the same on revaluation of the examination, this Tribunal cannot sit over the judgement of ^{the committee which} ~~the committee which~~ conducted the test and accordingly declared ~~of~~ the results on the basis of

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and that
performance of the applicant/would be within the discretion
of the authorities; ~~xxx~~ This Tribunal cannot ^{consider} ~~xxxxxxx~~ the
said ~~assumption~~ assessment as if this Tribunal is an
appellate authority. Therefore, the endoresement dated
25.9.96 given to the applicant does not call for any
interference. At the same time ^{we} ~~he~~ may point out that
the same endorsement dated 25.9.96 was given to the
applicant in the year 1996 and this application is
presented only on 24.3.98, ^{nearly} ~~very~~ after two years of the
endoresement. There is no application for condonation of
delay also. In these circumstances, this application also
is liable to be dismissed as barred by time. Accordingly,
we pass the order as under :-

Application is dismissed. No costs.


(N.P. NAWANI)
MEMBER (A)


(B.S. RAIKOTE)
VICE CHAIRMAN