

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR

Date of order: 06.04.2000

OA No.303/98

Udai Chand S/o Shri Durga Singh at present working as MCF,
T.N.No.70439/21 DSC (POM) Shop, LOCO, Ajmer

.. Applicant

Versus

1. Union of India through the General Manager, Western Railway, Churchgate, Bombay.
2. Deputy Chief Mechanical Engineer project (Loco), Western Railway, Ajmer.
3. Chief Work Shop Manager (Estt.), Western Railway, Ajmer.

.. Respondents

Mr. Mukesh Agarwal, counsel for the applicant

Mr. S.S.Hasan, counsel for the respondents

CORAM

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

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

ORDER

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

The applicant herein is basically aggrieved on account of the fact that the benefit that was given to his exactly similarly situated colleagues S/Shri Sujan Chand in OA No.408/94 and Akbar Hussain in OA No.397/94 is not being extended to him simply on the ground that the benefit to Sujan Chand and Akbar Hussain was given on the basis of Court orders, the same is not applicable on him as indicated in the impugned letter dated 21.2.1998 (Ann.A1). Hence he has been forced to file this Original Application.

2. As in the above mentioned OAs, the applicant in this OA also prays that the order dated 13.8.1994 (Ann.A2) by which the name of the applicant apart from the names of two applicants in the OAs mentioned in the preceding paragraph, was deleted from the panel of Apprentice Mechanic (Diesel Shop) against 25 per cent promotion quota, may be quashed alongwith the reply letter dated 21.2.1998 (Ann.A1). It is further prayed that respondents may be directed to take the final retention test and accordingly regularly promote him on the post of

Chargeman Grade 'B' in the pay scale of Rs. 5000-8000 with all consequential benefits from the date similarly situated persons have so been given.

3. We have heard the learned counsel for the parties and perused the records. It is not disputed that the facts of this case are similar to those of OA No.408/94, Sujan Chand v. Union of India and ors. which was disposed of by this Tribunal by its order dated 8.9.1995. The facts and issues involved in OA No.397/94, Akbar Hussain Siddiqui v. Union of India and ors. decided on 1.11.1995 are also similar except for the difference that the applicant herein had also been promoted to the post of Chargeman Grade 'B' and was subsequently reverted vide the same impugned order dated 13.8.1994.

4. It is a well settled legal position that similarly situated persons should not be denied the benefit that the Courts/Tribunals have given. In fact, it has also been observed that Departments should not force similarly situated persons to knock at the doors of the Court and themselves allow the benefit to such employees. When such cases are brought before the Courts/Tribunals after the applicants have failed to get the relief from the authorised, these cannot be dismissed for the reasons of having become time barred as held by the Apex court in a judgment delivered by a 5-Judges Bench in K.C.Sharma and Ors. v. Union of India and ors., reported in 1988 (1) SLJ 54.

5. We have satisfied ourselves that the applicant is exactly similarly situated as the two applicants in the earlier two OAs mentioned hereinabove. In fact all three of them were aggrieved by the same order dated 13.8.1994 (Ann.A2 in this OA) by which their names were deleted from the panel of selected persons. That the applicant is a similarly situated person has not been disputed at all and the very language of the reply to the applicant's representation through the impugned letter dated 22.1.1998 (Ann.A1) also indicates that the only reason given was that "the order of the Tribunal is not applicable to him" (approximate translation). In view of this, without mentioning the facts of the present OA in detail, we dispose of

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this OA with a direction similar to one given in OA No.408/1994.

6. We accordingly quash the impugned order dated 13.8.1994 (Ann.A2) alongwith letter dated 22.2.1998 (Ann.A1) and direct the respondents to hold the final retention test in respect of the applicant and if the applicant is found to have passed the test, he should be granted the benefits of such passing of the test, as may be available to him in accordance with the rules. This direction may be carried out within four months of the receipt of a copy of this order.

7. The OA stands disposed of accordingly at the stage of admission and parties are left to bear their own costs.



(NP. NAWANI)

Adm. Member



(S.K. AGARWAL)

Judl. Member