

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH,

JAIPUR

Date of order: 09.04.2003

OA No.134/99

Mahesh Chand Sharma s/o Shri Shyam Sunder Sharma r/o Near Nanag Ram Shop, Railway Colony, Sawaimadhopur.

.. Applicant

VERSUS

1. Union of India through the General Manager, Central Railway, Mumbai B.T.
2. Divisional Railway Manager, Divisional Office, Central Railway, Jhansi.

.. Respondents

Mr. S.K.Jain, counsel for the applicant.

Mr. T.P.Sharma, counsel for respondents

CORAM:

HON'BLE MR. H.O.GUPTA, MEMBER (ADMINISTRATIVE)

HON'BLE MR. M.L.CHAUHAN, MEMBER (JUDICIAL)

O R D E R (ORAL)

The applicant has filed this OA for the following reliefs:-

- "i) That the respondents be directed to consider the case of the applicant for alternative appointment in Clerk cadre and give him appointment on the above post from the date of his passing the Railway Board examination i.e. 14.11.91 with all consequential benefits.
- ii) Any other relief which this Hon'ble Tribunal deems fit may also be granted."

2. The respondents have contested this application.

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3. The applicant has also filed rejoinder.

4. Heard the learned counsel for the parties and perused the record.

4.1 During the course of arguments, the learned counsel for the applicant produced RBE No.150/2000 which is reproduced below:-

"Subject: Recruitment of medically unfit direct recruits in alternative categories.

Reference: Board's letter No. 99/E(RRB)25/25/12, dated 20.8.99.

General Managers were authorized, vide Board's letter referred to above, to consider requests from candidates of non-technical categories also, who fail in prescribed medical examination after empanelment by RRB, for their posting in alternative categories subject to certain conditions mentioned in the letter under reference. It is further clarified that General Manager's powers of offering alternative appointment to such candidates will cover Group D categories also, subject to a restriction that the General Managers may offer, at their discretion, alternative appointment in another equivalent category for which the medically failed candidates is fit, only if the alternative category being offered is one for which Board's approval has been obtained already for filling up vacancies. Board's permission for filling up vacancies in any particular category should not be sought merely for accommodating such candidates.

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2. It is reiterated that these instructions will apply to all candidates both from reserved as well as non-reserved communities and for all categories of recruitment to Group C & D posts subject to restrictions for Group D categories mentioned in Para 1 above, and other conditions mentioned in Board's letter of even number dated 20.8.99 and the following earlier instructions:

- i) Letter No.84-E(SCT)25/14 dated 7.11.85 &
- ii) Letter No.E(NG)62/EC/1/95 dated 26.10.62.

....."

4.2 The learned counsel for the applicant submitted that his case is squarely covered by these instructions. After consulting his client, the learned counsel for the applicant submitted that the applicant will be satisfied if he is given appointment to any post for which he is suitable and where the direct recruitment is resorted to, under the powers vested in the General Manager as per RBE No.150/2000. He further submitted that accordingly seniority can be reckoned from the date of his actual appointment/holding the post.

5. In view of above submissions of the learned counsel for the applicant and keeping in view the RBE No.150/2000, this OA is disposed of with a direction to the applicant to file a fresh representation to the General Manager, Central Railway within 15 days from today alongwith a copy of order and by speed post to avoid delay. In that event, the General Manager is directed to consider his representation in accordance with RBE No. 150/2000 and order appointment of the applicant to a post where direct recruitment is also resorted to, for which

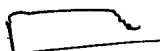
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the applicant is considered suitable as per his medical category and by relaxing the age where necessary within a period of two months from the date of receipt of his representation. In case, he feels that the applicant is not covered under these instructions or he cannot be appointed to any post, he shall pass a speaking order within the said period. No order as to costs.



(M.L.CHAUHAN)

Member (J)



(H.O.GUPTA)

Member (A)