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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

O.A.No.196/99

Date of order: 9.11.2000

Kishanlal 'B', S/o Shri Balu Ram, R/o Quarter No.12 LA, Railway Loco Colony, Kota, presently holding the post of Asst.Driver(AC).

...Applicant.

Vs.

1. Union of India through General Manager, W.Rly, Churchgate, Mumbai.
2. Divisional Railway Manager, W.Rly, Kota Division, Kota.

...Respondents

Mr.C.B.Sharma - Counsel for Applicant.

Mr.T.P.Sharma ) - Counsel for respondents.

Mr.Balbeer Singh)

CORAM:

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

Hon'ble Mr.Gopal Singh, Administrative Member.

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

In this Original Application under Sec.19 of the Administrative Tribunals Act, 1985, the applicant makes a prayer to quash and set aside the order dated 15.3.99 and not to revert the applicant to the post of Fireman-II. Further directions are also sought to allow all consequential benefits of seniority, arrears of pay, etc.

2. The applicant was initially appointed on the post of Cleaner thereafter he was promoted to Fireman-II and Fireman-I and allowed to work on the post of Assistant Driver in the year 1989. It is stated that the work of the applicant was to the entire satisfaction of the respondents' department and he has passed the training course also. Therefore, the applicant was entitled to the post of Assistant Driver, pay scale of Rs.950-1500, revised Rs.3050-4500 but the respondents have reverted the applicant vide order Annx.A1. It is stated that order Annx.A1 is arbitrary, illegal and unjustified and not sustainable in law and also in violation of the provisions of Articles 14 and 16 of the Constitution of India. Therefore, the applicant filed this O.A for the relief as mentioned above.

*[Handwritten signature]*

3. Reply was filed. In the reply, it is stated that the applicant was given the post of Assistant Driver on ad hoc basis and the same was given subject to passing the selection. The applicant was called for selection vide letter No.E/L/339/S/1/1 dated 28.12.90 but he did not appear. Therefore, the applicant was not eligible for regularisation on the post of Asstt.Driver. It is also stated that the applicant was again called for selection held on 30.10.98 and 9.11.98 but he did not appear as informed vide letter dated 17.11.98. This shows that the applicant does not want to appear in the selection test for regularization to the post of Asstt.Driver/Fireman Gr.I. Since the applicant did not appear in the selection test, he cannot be continued as Asstt.Driver, therefore, he was reverted on his substantive post, Fireman-II by down grading till he is absorbed in alternative post. Therefore, it is stated by the respondents that the applicant has no case for interference by this Tribunal.

4. Rejoinder has also been filed reiterating the facts stated in the O.A.

5. Heard the learned counsel for the parties and also perused the whole record.

6. Admittedly, the applicant was given the post of Assistant Driver/Fireman-I on ad hoc basis. The applicant has no vested right to remain on the promotion post which were given to him on ad hoc basis. It is also undisputed fact that the applicant was called for selection test and he did not appear. It was a condition precedent for regularisation that one must have passed the selection test. Since the applicant did not appear in the selection test for regularisation and he was only given promotion on ad hoc basis, therefore, in our considered view, the applicant has no case for interference by this Tribunal and this O.A devoid of any merit is liable to be dismissed.

7. We, therefore, dismiss the O.A having no merit with no order as to costs.

(Gopal Singh)

Member (A)

(S.K.Agarwal)

Member (J).