

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR

O.A. No. 481/99
T.A. No.

X199X

DATE OF DECISION 27-08-2

Mr. Abdul Rahim Petitioner

Mr. Shiv Kumar Advocate for the Petitioner (s)

Versus

Union of India and 3 others Respondent

Mr. T.P. Sharma Advocate for the Respondent (s)

CORAM :

The Hon'ble Mr. Justice G.L. Gupta, Vice Chairman.

The Hon'ble Mr. Gopal Singh, Administrative Member.

1. Whether Reporters of local papers may be allowed to see the Judgement ? X
2. To be referred to the Reporter or not ? yes
3. Whether their Lordships wish to see the fair copy of the Judgement ? yes
4. Whether it needs to be circulated to other Benches of the Tribunal ? yes

I agree

Mr. Gopal Singh
Hon'ble Member(A)

G.L. Gupta
Vice Chairman.

CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH : JAIPUR

Original Application No. 481/99

Abdul Rahim
S/o Shri Abdul Wahid,
r/o Near Jama Masjid,
Gangapur City.

: Applicant

rep. by Mr. Shiv Kumar

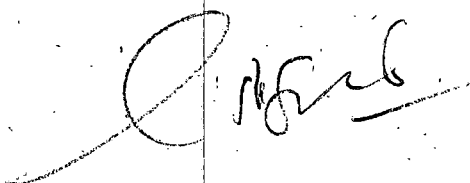
: Counsel for the applicant

versus

1. Union of India
through the
General Manager,
Western Railway
Church Gate,
Mumbai.
2. Divisional Railway Manager
Estt.
Western Railway
Kota Division,
Kota.
3. Senior Divisional Traffic Engineer
Estt.
Western Railway,
Kota Division
Kota.
4. Sh. Janki Lal,
Vehicle Driver Grade-I
Working under CWS Kota
Western Railway
Kota, through
CWS Western Railway,
Kota.

: Respondents.

rep. by Mr. T.P. Sharma : Counsel for the respondents.



CORAM: The Hon'ble Mr. Justice G.L. Gupta, Vice Chairman
The Hon'ble Mr. Gopal Singh, Administrative Member

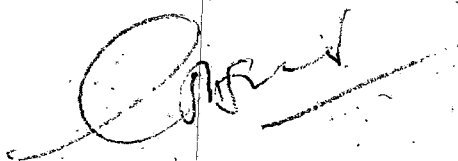
Date of the
Order : 27.9.02

Per Hon'ble Mr. Justice G.L. Gupta

ORDER

Through this O.A. the applicant calls in question the order (Annex. A.1) whereby the respondent No. 4 was promoted as Driver Gr.I in the scale of pay of Rs.4500-7000 and the applicant was not promoted.

2. The applicant was initially appointed as Driver Gr.III on 13.6.71 in the scale of pay of Rs.950-1500. He was promoted as Driver Gr.II in the scale of pay of Rs.1200-1800. It is averred that in the year 1989, one post of Driver Gr.II was upgraded as Driver Gr.I in the scale of pay of Rs.4500-7000 and this post was to be filled from the persons in the scale of pay of Rs.1200-1800 after a trade test. The applicant submitted a representation to the authorities to give him promotion to the upgraded post. It is averred that the representations dated 7.7.92, 31.12.92, 5.1.93 and March 1995, of the applicant remained unattended, even though he was eligible to be promoted to the post. It is pointed out that in the order dated 21.7.93, it was clearly stated that the applicant was fully eligible for promotion/trade test to the post of Driver Gr.I. It is the case for the applicant

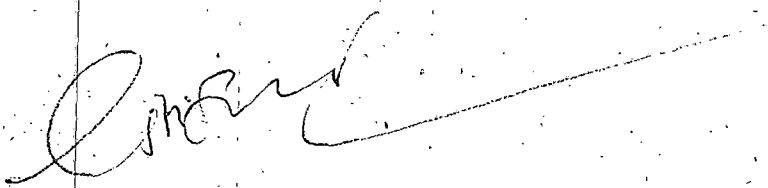


that the respondent No. 2 by order dated 13.3.96 had ordered the conduct of the trade test, wherein the names of the applicant and respondent No. ④ were mentioned as the eligible candidates for the trade test. The applicant was informed that the trade test would be conducted on 23.5.96, but he could not appear in the said trade test due to illness. In the result published on 28.6.96/1.7.96, the applicant was shown as absent. Thereafter the applicant made a request for the conduct of trade test for him. However, no trade test was conducted and the 4th respondent was promoted vide order dated 5.8.99, depriving the promotion to the applicant. It is prayed that the respondents be directed to conduct the trade^{test}/of the applicant for the post of Driver Gr.I and he be given the promotion with all consequential benefits.

3. In the reply, the respondents' case is that a separate trade test was held in respect of the applicant but he failed in that test and he was informed about the result vide communication dated 20.7.99.

4. We have heard the learned counsel for the parties and perused the documents placed on record.

5. It is noticed from the averments made in the O.A that the request of the applicant for holding trade test had not been accepted and therefore he had to file this O.A seeking directions for holding



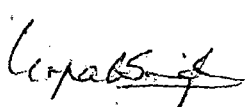
the trade test for him. The reply, however, indicates that a separate trade test was conducted on 17.5.99 and the result was published on 20.7.99 and according to the result, the applicant had not succeeded in the trade test.

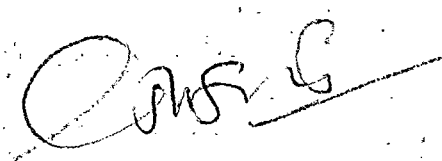
6. The applicant has not filed rejoinder to the reply. It is not the case for the applicant that no trade test was conducted on 17.5.99 or that the result of the trade test was not communicated to him on 20.7.99.

7. When the applicant had appeared in the trade test held on 17.5.99 and he failed, it has to be observed that he has not come before this Tribunal with clean hands. The application is liable to be dismissed on the ground of suppression of the important facts.

8. That apart, the applicant having failed in the trade test cannot succeed in this O.A.

9. Consequently, the O.A is dismissed with costs Rs. 500/-


(Gopal Singh)
Administrative Member


(G.L.Gupta)
Vice Chairman.

jav.