

CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH : JAIPUR

Jaipur, this the 3rd day of March, 2005.

OA No.210/2003.

CORAM : HON'BLE SHRI V. K. MAJOTRA, VICE CHAIRMAN.
HON'BLE SHRI M. L. CHAUHAN, JUDICIAL MEMBER.

Hari narayan Meena,
S/o Shri Jayram Meena,
aged about 38 years,
R/o Jagatpura,
Jaipur.

...Applicant.

By Advocate : Shri Kapil Mathur proxy counsel for
Shri R. N. Mathur.

Vs.

1.Union of India through
General Manager
North Western Railway,
Jaipur.

2.Divisional Railway Manager,
Central Railway,
Jhansi (M.P.)

... Respondents.

By Advocate : Shri S. S. Hassan for Respondent No.1.
Shri Tej Prakash Sharma for Respondent No.2.

:ORDER :

By V. K. Majotra, Vice Chairman.

Applicant has challenged the following orders of the
respondents :-

- 1) Annexure A/1 dated 23.4.2003 whereby Applicant was not allowed to join as Engineer Grade-II in the scale of Rs.5000-8000 in North Western Railway, Jaipur, although on the basis of his option he had been relieved from Jhansi and he had reported for duty at Jaipur. He was repatriated on the ground that he was not found suitable for work.
- 2) Annexure A/2 dated 4.4.2003 issued by North Western Railway, Jaipur, stating that as he is not diploma holder in Mechanical Engineering and thus is not fit

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to work in Mech.HQ NWR Officer.

2. Learned Counsel for the applicant contended that Applicant had been working on the post of Khallasi in Central Railway, Jhansi Division, since 1988. He was appointed as Junior Engineer after qualifying requisite diploma course conducted by Railways from 11.1.2000 - 7.11.2001 (Annexure A/6). Diploma of training school is recognised for the purpose of giving appointment on the post of Junior Engineer in Railways. Learned Counsel stated that in terms of Para 142 (2) of the Indian Railway Establishment Manual, Volume-I, diploma in mechanical engineering is prescribed as qualification for direct recruitment of Junior Engineer. Applicant had been promoted by selection and, therefore, qualifications of direct recruitment are not applicable to him. However, his diploma of training school for a period of about 2 years is equivalent to the diploma in mechanical engineering and he had been selected and appointed as Junior Engineer. Vide Annexure A/5, he had submitted his option dated 12.8.2002 for serving in North Western Railway Zone in response to respondents Circular Annexure A/4 dated 31.7.2002. Vide Annexure A/7 dated 21.3.2003 the Applicant was transferred to North Western Railway Zone on the basis of his option in the same capacity as Junior Engineer. Learned Counsel stated that in the facts of the case, respondents could not have repatriated applicant vide impugned orders finding him unsuitable or unqualified.

3. On the other hand, respondents have stated that applicant is not a diploma holder in mechanical engineering and, therefore, was not found suitable to work in North Western Railway Zone as Junior Engineer, although on the basis of his option he had been transferred to the new

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Zone. Learned Counsel stated that respondents would take action against the applicant on repatriation to his parent Zone against his promotion as Junior Engineer Grade-II as he is not qualified for promotion.

4. Respondents have stated in their counter reply that as per Para 142 (1) of IREM, the recruitment process for appointment as EXR/Jr. Engineer-II is as follows :-

"(1) 50% by direct recruitment as apprentice Train examiners through the Railway Recruitment Boards.

(2) 25% by intermediate apprentices from amongst serving matriculate employees with three year service in skilled grade(s) and below 45 years of age and

(3) 25% by promotion by selection, if the selection supplementary selected from amongst miseries/skilled grade I and II fails to provide enough candidates, another supplementary selection from amongst skilled grade (with 5 years service in skilled grade and 10th class qualification or with 3 years service and matriculation) will be held the condition regarding qualification applying to staff in skilled grade. Qualification etc. for direct recruitment are as under :-

Educational -Diploma in Mechanical"

5. Respondents have admitted that diploma in mechanical engineering is the qualification prescribed for direct recruitment for the post of Junior Engineer Grade-II.

Admittedly, the applicant has passed the diploma course conducted by the Railways from 11.1.2000 - 7.11.2001 vide Annexure A/6. It is also not denied that applicant was promoted to the post of Junior Engineer Grade-II at Jhansi in Rankers quota on the basis of his option for appointment in North Western Railway Zone. He was transferred to the newly created Railway Zone namely North Western Railway Zone, however, he was not accepted by that Zone stating that applicant did not possess the qualification of diploma in mechanical engineering and was not found suitable for working there.

6. We have considered respective contentions and the material on record.

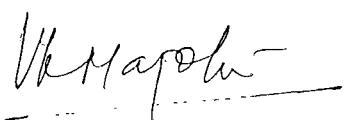
¶. Qualification of diploma in mechanical engineering is not applicable to promotees in terms of Para 142 (1) of IREM, ~~but~~ ^{yet he} the applicant had qualified in the Railways own diploma course which he had attended from 11.1.2000 - 7.11.2001 (Annexure A/6). Admittedly, this is equivalent of diploma course in mechanical engineering. Applicant had already been promoted to the post of Junior Engineer Grade-II in Jhansi. In response to respondents circular and on the basis of the applicant's option he was transferred to the new zone in the same capacity as he was working at Jhansi. Basically respondents cannot apply the academic qualification meant for direct recruitment in the case of applicant who was a promotee. In any case it is creditable that applicant had acquired equivalent qualifications from Railways under Supervisors training institute, Jhansi. He had already been promoted as Junior Engineer Grade-II, Jhansi. Respondents had called for option from the employees working in other zones for transfer to newly created North Western Railway Zone. On the basis of his option he was transferred to North Western Railway Zone. Both Annexure A/1 and A/2 are found to be arbitrary and without any basis. Annexure A/2 could not have been issued stating that applicant is not diploma holder in mechanical engineer when that qualification is prescribed for direct recruitment only and applicant is a promotee. There is no basis to state that he is "unfit to work in Mech. HQ NWR Officer". Similarly in Annexure A/1 also respondents have stated that the applicant is not fit to work in the new zone. Respondents have not been able to provide any good grounds for not allowing the applicant to work in the new zone as Junior Engineer Grade-II.

¶. In result, the OA is allowed. Annexures A/1 and A/2 are quashed and set aside. Respondents are further directed to

allow the applicant to join immediately in North Western Railway Zone in the same grade and capacity in terms of Annexure A/8 dated 31.3.2003.


(M. L. CHAUHAN)

MEMBER (J)


(V. K. MAJOTRA)

VICE CHAIRMAN

3.3.05