

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH

Original Application No. 1047 of 2004

Quarto, this the 23rd day of February, 2005

Hon'ble Shri M.P. Singh, Vice Chairman
Hon'ble Shri Madan Mohan, Judicial Member

Kanhaiyalal, son of Brijlal, aged 52
years, resident of R.B.I-121/E, West
Railway Colony, Bhopal. ... Applicant

(By Advocate - Shri Manish Tiwari on behalf of Shri
P.R. Bhave)
V e r s u s

1. Union of India, through the Secretary,
Ministry of Railways, Rail Bhawan,
New Delhi.
2. General Manager, West Central
Railway, Zone office at Jabalpur.
3. Divisional Railway Manager, West
Central Railways, Habib Ganj,
Bhopal. ... Respondents

(By Advocate - Shri M.N. Banerjee)

O R D E R

By Madan Mohan, Judicial Member -

By filing this Original Application the applicant
has claimed the following main reliefs :

"(i) a writ in the nature of mandamus may please
be issued commanding the respondents to regularize
the applicant's services in the category of Motor
Driver Grade-C (III) in the pay scale of Rs. 3050-
4590/-,

(ii) the respondents may please be further
directed to accord him proper seniority based on
his initial appointment as driver vide order dt.
8.1.1993 passed by the then DRM Jhansi-Bhopal
Division,

(iii) the respondents may please be further
directed to grant all other consequential benefits
arising out of such regularisation of the applicant's
services."


2. The brief facts of the case are that the applicant
vide order dated 8.1.1993 was promoted as Driver from
the post of Ambulance Attendant on temporary basis. The
applicant has cleared the trade test as a Driver. The

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respondent No. 3 issued the seniority list of Driver on 6.9.2004. In this list the name of the applicant is missing in the category of Motor Driver Grade-C. Despite clearing the driving test in the year 1989, the applicant and number of other drivers were called for the drivers examination. The applicant appeared in the said examination and was relieved thereafter. The persons shown at serial Nos. 2, 4, 14, 16, 23 and 31 to 46 in the seniority list under the heading of Driver Grade-C also appeared alongwith the applicant for Driver Grade-C examination. Prior to the appointment as Motor Driver Grade-C Mannulal Tulsiram, Manoj Kumar and Lallu Ram were initially working as Sweepers whereas other persons shown at serial Nos. 2, 14, 23 and 31 to 36 were working as Khalasis. The applicant was initially appointed in July, 1973 as a Sweeper vide order passed by the then DRM, Jhansi-Bhopal Division came into existence somewhere in the year 1986. Since the applicant was not regularised on the post of Motor Driver Grade-C(III) he had made representations but the same has not yet been decided. Hence, this OA is filed.

3. Heard the learned counsel for the parties and carefully perused the pleadings and records.

4. It is argued on behalf of the applicant that the applicant was appointed as Sweeper in the year 1973. On 8.1.1993 the applicant was promoted as Driver from the post of Ambulance Attendant on temporary basis. In the seniority list issued by the respondent No. 3 on 6.9.04 the name of the applicant was not shown. He has not yet been regularised by the respondents on the post of Motor Driver Grade-C(III). He made several representations in this regard. Hence, the applicant is legally entitled for



the reliefs claimed.

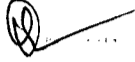
5. In reply the learned counsel for the respondents argued that the applicant was initially appointed as as Safaiwala on 12.7.1973 and was required to work purely on temporary basis as Motor Driver by order dated 7.1.1993 in the pay scale of Rs. 950-1500/- purely on adhoc arrangement. For regular appointment to the post of Motor Driver, it was essential that one has to qualify the screening test. The applicant appeared in the screening test held in the year 2001 but was not found suitable. Subsequently in 2003 screening test also the applicant was not found suitable. Hence, the applicant could not qualify the screening tests held for the years 2001 and 2003 which was a must requirement for regular appointment to the post of Motor Driver. The action of the respondents is perfectly legal and justified.

6. After hearing the learned counsel for the parties and on careful perusal of the pleadings and records, we find that the applicant has suppressed this fact in his Original Application that he appeared in the screening test held in the years 2001 and 2003 and in both the tests he was not found suitable by the respondents. Initially he was appointed as Safaiwala on 12.7.1973. For regular appointment to the post of Motor Driver, qualifying in the screening test is essential, but the applicant could ^{not} qualify the screening test twice. Hence, he is not entitled for the reliefs claimed. We do not find any illegality or irregularity in the action of the respondents.

7. In the circumstances, we are of the considered opinion that the applicant has failed to prove his case and



this Original Application is liable to be dismissed as having no merits. Accordingly, the Original Application is dismissed. No costs.



(Madan Mohan)
Judicial Member



(M.P. Singh)
Vice Chairman

"SA"

पृथक् सं ओ/न्या.....जबलपुर, दि.....

पत्तिलिपि अर्पित -

(1) सचिव, उच्च न्यायालय तार एलेक्ट्रिकल, जबलपुर

(2) आवेदक श्री/श्रीमती/कु.....के कार्यालय

(3) प्रत्यर्थी श्री/श्रीमती/कु.....के कार्यालय

(4) छायापाल, के.प्र.अ., जबलपुर सरकार की सूचना एवं आवश्यक कार्यवाही हेतु

का अधिकारी

P.R. Bhanu

M.P. Singh

M.P. Singh

Issued
On 15.3.05
BS