

Central Administrative Tribunal
Jabalpur Bench

OA No.1160/04

Quoted for this the 22nd day of June, 2005.

C O R A M

Hon'ble Mr.M.P.Singh, Vice Chairman

Hon'ble Mr.Madan Mohan, Judicial Member

Rajaram Gupta
S/o Ramkishore Gupta
Helper Khalasi
West Central Railway
Bhopal.

Applicant

(By advocate Ms.J.Aiyer on behalf of Smt.J.Choudhary)

Versus

1. Union of India
Through General Manager
West Central Railway
Jabalpur.
2. Divisional Railway Manager (P)
West Central Railway
Bhopal.
3. Sr. Divisional Signal & Telecom Engineer
West Central Railway
Bhopal.

Shri M.S.Parekh
Senior Section Engineer
Main Depot Incharge
West Central Railway
Itarsi (M.P.)

Respondents.

(By advocate Shri S.P.Sinha)



ORDER

By Madan Mohan, Judicial Member

By filing this OA, the applicant has sought the following reliefs:

- (i) To direct the respondents to grant seniority and grade of Striker with effect from 1999 and he be treated at par with juniors promoted in the year 1999.
- (ii) To direct the respondents to consider the case of the applicant for the promotional post of Blacksmith for which the applicant holds the requisite qualification and experience.

2. The brief facts of the case are that the applicant was initially appointed on 8.5.1987 in a permanent post and posted as Khalasi to assist Blacksmith CSI/RE/BPL as he was an ITI trained and qualified the trade test of blacksmith and he was regularized in the said post on 16.5.88 in a permanent post in the scale of Rs.750-940. Subsequently, he was promoted as Helper in the grade of Rs.800-1150. Though the applicant was an ITI trained and passed the trade test for Blacksmith, the respondents did not offer him the job for which he was qualified. Due to the ill will of the respondents, the applicant was deprived of promotion for which he was entitled. During 1996, respondents called a person junior to the applicant for the trade test on 22.5.96 to the promotional post of Striker and later promoted him but did not consider the case of the applicant. Being aggrieved by the discriminatory and malafide action of the respondents, the applicant preferred a representation to consider his case for promotion but the respondents did not pay any heed to it. Later on, the respondents called the applicant for appearing in the trade test of Striker on 20.12.2002. Though the applicant cleared the test, he was not selected whereas persons having no technical experience were declared passed



and later promoted. Thereafter, the applicant preferred a detailed representation on 1.4.2003 followed by a reminder on 5.10.2004. But the respondents have not considered his claim. Hence this OA is filed.

3. Heard the learned counsel for both parties. It is argued on behalf of the applicant that the applicant possessed ITI certificate, which is marked as Annexure A1/B while the respondents have denied this fact in their return. The applicant appeared in the trade test as directed by the respondents on due date and his performance was excellent but he was declared failed while other persons having no technical experience were declared passed and later they were promoted. The action of the respondents in not considering the case of the applicant for promotion to the post of Striker and Blacksmith is arbitrary, illegal and unjust.

4. In reply, the learned counsel for the respondents argued that the applicant was called for trade test held on 20.12.02 vide letter dated 9.12.02 in which he had failed (Annexure R1). The respondents have not committed any act of malafide against the applicant and the applicant cannot challenge the result of the trade test declared by the respondents. Even though he is an ITI trained employee, it would not help the applicant, as the applicant could not succeed in the trade test held on 20.12.02. The post of Blacksmith Gr.III is a Group 'C' post while helper Khalasi is a Group 'D' post. For helper Khalasi the post of Blacksmith is not a cadre post for promotion. Hence, when posts occur in Group 'C' for Blacksmith and other trades, notification is issued inviting options from Group 'D' employees. Promotion from Group 'D' to Group 'C' is made on the basis of trade test, which is known as selection post. Thus whether qualified or unqualified



persons, for promotion, 'trade test' is must and only when an employee is successful in the trade test he is p-promoted against the vacancy. Hence the action of the respondents is perfectly legal and justified. The OA deserves to be dismissed.

5. After hearing the learned counsel on both sides and carefully perusing the records, we find that the applicant is an ITI trade certificate holder but he could not succeed in the trade test held on 20.12.02. Passing of trade test is necessary for promotion to the relevant grade. The argument advanced on behalf of the respondents is that promotion from Group 'D' to Group 'C' is made on the basis of trade test which is known as selection post and trade test is must and only when an employee is successful he is promoted against the vacancy and as the applicant could not succeed in the trade test conducted by the respondents, he is not entitled for the reliefs claimed. This argument seems to be perfectly legal and justified.

6. Considering all facts and circumstances of the case, we are of the considered opinion that the OA has no merit. Accordingly, the OA is dismissed. No costs.

(Madan Mohan)
Judicial Member

(M.P. Singh)
Vice Chairman

aa.

पृष्ठान्कन सं ओ/न्या. जयलपुर, दि.

प तिलिपि अ नो धित :-

- (1) सचिव, उच्च न्यायालय वार एम.पी.सिंगरान, जयलपुर
- (2) आवेदक श्री/श्रीमती/शु. के काउंसल
- (3) प्रत्यर्थी श्री/श्रीमती/शु. के काउंसल
- (4) वॉयपाल, को.प्र.अ., जयलपुर न्यायापीठ

सूचना एवं आवश्यक कार्यवाही हेतु

उप रजिस्ट्रार

J. Chaudhary D.V. 2003
M.P. Singh D.V. 2003

Handwritten signature and initials.