

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 151 of 2004

Jabalpur, this the 1st day of November, 2004

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

Bhupendra Kumar Sharma,
S/o late D.P. Sharma,
Aged about 32 years,
Asstt. Chief Ticket Inspector,
R/o 72, Naveen Nagar, Aishbagh
Post Office S. Sarai,
Bhopal.

APPLICANT

(By Advocate - Shri S. Paul)

V e r s u s

1. Union of India,
Ministry of Railway,
Through General Manager,
West Central Railway,
Jabalpur.
2. Divisional Railway Manager,
West Central Railway,
Bhopal Division, Bhopal,
Bhopal.
3. Rajdeep Thakur,
S/o late H.P. Thakur,
Traffic Inspector,
C/o Divisional Railway Manager,
West Central Railway,
Bhopal Division, Bhopal,
Bhopal

RESPONDENTS

(By Advocate - Shri M.N. Banerjee)


O R D E R (Oral)

By M.P. Singh, Vice Chairman-

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

"(iii) Upon holding that the action of the department in appointing the private respondent in the grade of Rs.5500-9000/- and appointing the applicant in an inferior pay-scale of Rs.4500-7000/- is bad in law, command that the applicant be appointed as Traffic Inspector or any other suitable post carrying the pay-scale of Rs.5500-9000/- from the date private respondent has been appointed. If necessary, summon and set aside the appointment of the private respondent as Traffic Inspector;

(iv) On such appointment of the applicant in the grade of Rs.5500-9000/- from the date Respondent No.3 was appointed, he be directed to provide all consequential benefits of pay and other consequential benefits."

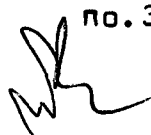


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2. The brief facts of the case are that the applicant's father was working as Asstt. Chief Ticket Inspector in Bhopal and died in harness on 6.1.2000. The applicant has submitted his representation for appointment on compassionate ground. Accordingly the applicant was called for written test for appointment on compassionate ground. The applicant and private respondent no.3 alongwith other eligible candidates appeared in the written examination. The applicant and private respondent no.3 after having passed the said written examination were called to appear in a viva-voce test. The applicant and private respondent no.3 cleared the same. The applicant was selected for the post of Asstt. Station Master, but he could not pass the strict medical examination for the post of ASM being a safety category post. According to the applicant the private respondent no.3 was appointed on the post of Traffic Inspector in the pay scale of Rs.5500-9000/- Hence this OA.

3. Heard the learned counsel for the parties.

4. During the course of the arguments, the learned counsel for the applicant has fairly conceded that the applicant could not pass the rigorous medical test of ASM. The post of ASM carry the pay scale of Rs.4500-7000. According to the learned counsel for the applicant, the pay scale of Enquiry-cum-Reservation Clerk against which the applicant was appointed also carry the same pay scale of Rs.4500-7000/-. The learned counsel for the applicant has further stated that the applicant was considered for the post of ASM. However, due to rigorous medical test for the post of ASM, he could not clear the said test. He was appointed to the post of Enquiry-cum-Reservation-Clerk in the pay scale of Rs.4500-7000/- whereas the private respondent ~~xxx~~ no.3 was appointed to the post of Traffic Inspector in the



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pay scale of Rs.5500-9000/- and thus there is a hostile discrimination between the applicant and private respondent no.3. He has, therefore, submitted that as the private respondent no.3 was appointed in the pay scale of Rs.5500-9000/- the applicant ought to have been considered for similar or equivalent post in ~~the same~~ pay scale of Rs. 5500-9000/. The learned counsel for the applicant has further stated that the present case is squarely covered by the judgment of Hon'ble Supreme Court in the case of Surya Kant Kadam Vs. State of Karnataka, 2002 SCC(L&S)1115.

5. On the other hand the learned counsel for the respondents has stated that at the relevant time no vacant post was available in the pay scale of Rs.5500-9000/- and it is because of this reason the applicant could not be considered for appointment on that pay scale. According to him, the applicant has failed in the medical examination for the post of ASM therefore, he has been offered another equivalent post which was available ~~at~~ that time.

6. Keeping in view the facts and circumstances of the case the ends of justice, would be ~~met~~ if we direct the respondents to consider and decide the representation of applicant dated 3.9.2003(Annexure-A-2) which is pending with the respondents and also consider the OA as part of the representation byt passing a detailed, reasoned and speaking order within 3 months from the date of receipt of a copy of this order. We do so accordingly. The OA stands disposed of. No costs.

(Madan Mohan)
Judicial Member

(M.P. Singh)
Vice Chairman

पुस्तक सं. ओ/न्या.....जबलपुर, दि.....

पुस्तक सं. ओ/न्या.....जबलपुर, दि.....

- (1) सचिव, उच्च न्यायालय, जबलपुर
- (2) अध्यक्ष श्री/श्रीमती/श्री/श्रीमती काउंसल
- (3) प्रवक्ता श्री/श्रीमती/श्री/श्रीमती काउंसल
- (4) अध्यक्ष, कोषा, जबलपुर न्यायाधीश सूचना एवं आवश्यक कार्रवाई हेतु

उप रजिस्ट्रार

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