

CENTRAL ADMINISTRATIVE TRIBUNAL
JABALPUR BENCH

CIRCUIT SITTING AT BILASPUR

OA No. 234/2004

Jabalpur, this the 20th day of May 2005.

C O R A M

Hon'ble Mr.M.P.Singh, Vice Chairman
Hon'ble Mr.A.K.Bhatnagar, Judicial Member

T.R.Sarma
Son of Late Shri T.C.Chalam
Employed as Adhoc Typist
J/o The Chief Engineer (Construction)
S.E.C.Railway, Bilaspur.
Residing at Railway Quarter No.950/2
R.T.S.Colony, Bilaspur (CG). Applicant.

(By advocate Shri B.P.Rao)

Versus

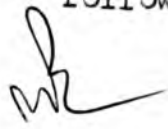
1. Union of India through
The Secretary
Ministry of Railways
Rail Bhawan, New Delhi.
2. The General Manager
South Eastern Central Railway
Bilaspur Zone, G.M.Office
PO & District Bilaspur (CG).
3. The Divisional Railway Manager
South Eastern Central Railway
Bilaspur Division, D.R.M.Office
PO & District: Bilaspur.
4. The Sr.Divisional Personnel Officer
South Eastern Central Railway
Bilaspur Division, Sr.D.P.O. Office
PO & District Bilaspur.
5. The Sr. Divisional Electrical Engineer (General)
South Eastern Central Railway
Bilaspur Division
PO & District: Bilaspur.
6. The Chief Engineer (Constructions)
South Eastern Central Railway
Bilaspur Division
PO & District Bilaspur. Respondents.

(By advocate Shri S.P.Shrivastava)

O R D E R

By A.K.Bhatnagar, Judicial Member

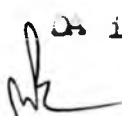
By filing this OA, the applicant has claimed the
following reliefs:



- (i) To direct the respondents to promote the applicant at par with his juniors who were already promoted in the skilled artisan trade of Technician grades, along with arrears of pay, seniority and pensionary benefits.

2. The brief facts of the case are that the applicant joined Railway Service in the year 1973 on casual basis as Khalasi in the Construction Department and attained temporary status in 1981. He was transferred to open line and posted as Khalasi under the Divisional Electrical Engineer (General), S.E.Railway, Bilaspur. In 1985, he was posted under LIEN as adhoc typist in the office of Chief Engineer (Construction), S.E.Railway, Bilaspur and since then he is working there in the same post. In the meantime, several juniors to the applicant were selected and promoted to higher scales and benefits and all such developments in his parent department were not intimated to the applicant by the respondents. The applicant himself acquired information regarding respondents' inviting options for skilled artisans grade posts in his parent department. Accordingly, he applied for the same but since he was totally away from the Technical Department since 15-16 years, he requested to provide him pre-promotional training enabling him to appear in the Trade Test for selection to the Skilled Artisan Grade Post, but his request was not considered. However, the applicant appeared in the test but was not selected. According to the applicant, the respondents are entirely responsible for his non-selection for the promotional post because he was not at all intimated by the respondents regarding his seniority position in his parent department or requirement of earlier options for skilled artisan posts, the date of written test held, conduct of training etc. Therefore, he could not get a chance to apply and prepare himself for such departmental test. Therefore, the action of the respondents is arbitrary and illegal. Hence this

is filed.



3. According to the applicant, he earlier filed an OA No.589/2003 seeking a direction to respondents to allow him one in-service training before conducting the trade test, so as to qualify in the skilled test for promotion to Skilled Artisan Grade in his parent department. That OA was disposed of by the Tribunal vide order dated 4.9.2003 with a direction to applicant to submit a detailed representation which shall be decided by the respondents in 3 months' time.

4. Learned counsel for the applicant submitted that the action of the respondents in not intimating the applicant about the trade test and further in not providing him information about pre-promotional training before holding the trade test for promotion is against the principles of natural justice, arbitrary and illegal, as the applicant remained away from his parent department for a considerable long period of time. Learned counsel further submitted that the applicant was denied to submit his options for promotions to the Skilled Post well before or at least in respect to the Circular issued on 23.7.1998. Hence the applicant is entitled for his notional seniority as well as arrears of pay at par with his juniors, as per the provisions contained in para 228 of REM. The applicant had appeared for the trade test held on 22.4.2002 but could not succeed. The learned counsel finally submitted that the respondents have not conducted any fresh test after declaring result on 22.4.2002, after a period of 6 months, as provided for in the Railway Board's circular dated 13.10.1967.

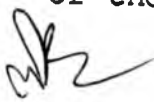
Handwritten signature/initials

4. Resisting the claim of the applicant, the respondents have filed a counter reply, against which rejoinder has also been filed by the applicant, reiterating the facts mentioned in the O.A. Learned counsel for respondents submitted that the applicant joined the Construction Organisation on the basis of his own request, as the Construction Organisation is an ex-cadre post/organisation. Hence his lien was retained in his parent department of Electrical/General section of open line organisation/cadre department. The applicant should have been in touch with his parent department to take future service benefits. Moreover, his parent department is also situated in the same building. Learned counsel submitted that it is not possible to relay each and every information to man to man. The respondents had published each and every information in regard to seniority position and memorandum to conduct the examination as per the extant procedure from time to time. While circulating any circular/official letter, it has been ensured to mark such circular/official letter to each and every concerned department, unit and section as well as pasted on the notice board's of office complex so that it is brought to the notice of each and every employee through the notice board. The claim of the applicant belies his version that he had got no knowledge about the circulars or office letters circulated by the department, as copies of such circulars/official letters have been filed by the applicant along with his petition. Learned counsel categorically submitted that there is no such rule which provides to give promotional training before holding any trade test to the Group 'D' regular employee. Learned counsel further maintained that the applicant was called for on the basis of the option

MB

submitted by him. He appeared in the trade test but failed. The applicant is working as a regular Group 'D' employee and he cannot be treated as a trainee artisan until and unless he qualifies for the same. Learned counsel further contended that the applicant joined the Construction Organisation in his own interest and thereafter he has not taken any serious effort to look for future promotional avenues in his parent department, as is evident from the fact that he has not contacted his parent department for about 15 years while his parent department is situated in the same building/place. Learned counsel finally submitted that it is not possible to extend promotional avenues to any employee unless and until he passes the suitability test. The juniors of the applicant got promotions against the direct recruitment quota/selection post but not against the departmental quota/non selection post or as per the seniority. Hence the question does not arise to deprive the applicant his career prospects.

5. We have heard learned counsel for both parties and perused the records as well as written arguments submitted by learned counsel of the applicant. Admittedly, the applicant joined the Construction Organisation (in the ex-cadre post), on his own option, having his lien in his parent department. It is also not disputed that the applicant filed OA No.589/2003 praying for arranging him one year in service training before conducting the trade test. That OA was disposed of by order dated 4.9.2003 and the respondents were directed to decide the representation of the applicant within a period of three months. The applicant



could not show any rule regarding pre-training trade test and he failed to produce any such rule. We have also gone through the order passed by the Office of the Sr. Divl. Elect. Engineer(Genl), Bilaspur dated 19.12.03 (Annexure A17), in compliance of the order of the Tribunal in DA 589/03. We find that this order is a detailed and speaking one. In this letter, it has been clearly mentioned that the applicant is working as a adhoc typist at Bilaspur under CEE (Con) BSP having lien as KSI/Helper in scale 2650-4000(RP) in Elect.Genl Department. The seniority list of KSI/Helper of P.L.Group has been published vide Sr.DPO/BSP's letter dated 15.10.01 and the name of the applicant has been placed at Sl.No.69 and copy of which is endorsed to CEE(Con) BSP. It is also clearly mentioned in the letter that the instructions contained in para 227 (ii) of REM are not applicable in his case since this is a case of departmental promotion as per his turn. In terms of the establishment Sl.No.81/91 only SC/ST candidates who are appearing for selection to Safety Category Post should be given pre-promotional coaching for three to four weeks. He has once appeared in the trade test for promotion to the post of Tech.Gr.III (pump fitter) and declared failed and the result published vide office order dated 22.4.02. It is also mentioned in the last para that as and when vacancies ^{are} available he will be called to appear for trade test for promotion to the post of Tech. Gr.III as per his turn.

6. In the facts and circumstances of the case and in view of the above discussion, we find no merit in the case of the applicant, as he wants his promotion at par with his junior without appearing in the trade test. Accordingly, the DA is dismissed. However, it is made clear that as and when vacancies are available, the respondents may consider the

mk

case of the applicant for promotion if he is otherwise found eligible, and subject to trade test as per his turn, according to rules, as mentioned in Annexure A17.

No costs.

(A.K. Bhatnagar)
Judicial Member

(M.P. Singh)
Vice Chairman

aa.

पृष्ठंकन सं ओ/व्या.....जबलपुर, दि.....
पतिविविध अन्वेषित:-

- (1) सचिव, उच्च न्यायालय बना एसेसिएशन, जबलपुर
- (2) आवेदक श्री/श्रीमती/कु.....के काउंसल
- (3) प्रत्यर्था श्री/श्रीमती/कु.....के काउंसल
- (4) ग्रामपाल, के.प.अ., जबलपुर न्यायाधीश सूचना एवं आवश्यक कार्यवाही हेतु

B.P. Rao B.N. Durey
S.P. Shrivastava
B.N. Durey

उप रजिस्ट्रार

Issued
On 31-05-05
28