

Central Administrative Tribunal
Jabalpur Bench

OA No.331/04

Indore, this the 17th day of November, 2005.

C O R A M

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

Hon'ble Mr.Madan Mohan, Judicial Member

Laxmidhar
S/o Lingraj
R/o R.E.Type 1-2/D
New Railway Colony
Vikramgarh Alot (MP)

Applicant

(By advocate Shri A.N.Bhatt)

Versus

1. The General Manager
West Central Railway
Station Road
Jabalpur.
2. The Divisional Rail Manager
West Central Railway
Kota (Rajasthan)

Respondents

(By advocate Shri H.Y.Mehta)

O R D E R

By Madan Mohan, Judicial Member

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

- (i) Quash the impugned order dated 4.3.94 (Annexure A1) and dated 1.2.94 Annexure A2.
- (ii) Declare that the applicant is eligible to appear in the trade test for the post of Lineman, Gr.III and he has the right to be considered for promotion on such post and because his juniors have been promoted on the post of Lineman, Gr.III vide order dated 1.2.94 Annexure A2, the applicant is entitled for promotion since the date i.e. 1.2.94 and is also entitled to get all the benefits of wages and seniority etc.



2. The brief facts of the case are that the applicant was appointed as Gangman on 23.4.1975 on permanent post. Later on he was transferred to the T.R.D.Wing for which he was found suitable in suitability test held on 17.10.87. On being found suitable he was posted vide order dated 18.11.1987 in the post of Trolleyman in the scale of Rs.800-1150. Though the applicant was eligible for promotion to the post of Lineman Gr.III, the respondents denied his right vide order dated 4.3.94. He had not been allowed to appear in the test whereas juniors to him were allowed and granted promotion (Annexure A5). In the eligibility list dated 8.9.89, the name of the applicant is shown as item No.66 and the listed persons were asked to appear in the trade test for the post of Helper-Khalasi in scale Rs.800-1150 and it was also mentioned that Trolleyman who were working in the scale Rs.800-1150 should not be directed to appear for the test. Junior persons in the list have been promoted on the post of Lineman Gr.III. They are Habibullah on item No.11 and Soohanda on item No.7 and others. The respondents proposed to conduct a trade test for the post of Lineman Gr.III and for forming a panel, a list of eligible employees was issued vide order-dated 5.9.90. The applicant's name appeared in the list at item No.6. But the test was not conducted for reasons best known to respondents. After two years again the trade test was ordered on 19.7.1993 but surprisingly the name of the applicant was deleted from the eligibility list. Though the applicant submitted a representation it yielded no result. Juniors to the applicant were called for trade test and promoted. Aggrieved, the applicant has filed this OA.

3. Heard learned counsel for both parties. It is argued on behalf of the applicant that the contention of the respondents that the applicant had failed in the trade test is wrong. Hence the impugned order Annexure A1 is apparently illegal and unjustified. The respondents did not conduct the proposed trade test for a long period for reasons best known to them. Learned counsel for the applicant has drawn our attention to Annexure A7 in which the name of the applicant is shown



at Sl.No.66. He has also drawn our attention to Annexure A10 in which the name of the applicant is shown at Sl.No.6 whereas the names of Sochenda and Habibullah are shown after the applicant at S.Nos.7 & 10 respectively. So far as the letter of reversion is concerned, it was written under threat of reversion. Hence this letter is not binding on the applicant. The action of the respondents is arbitrary and malafide. Hence the applicant is legally entitled for the reliefs claimed.


4. In reply, learned counsel for the respondents argued that the applicant was initially appointed in 1975 as temporary employee and was regularized as Gangman and on his own request in 1987 was transferred to TRD Department. He then failed in trade test vide order-dated 26.11.93 and thereafter he was reverted to the post of Gangaman. The reasons are given in his application at Annexure A13. The reversion was not as a punishment or in administrative exigency but on his own request to adjust him. Looking to his service as Trolleyman, his pay was protected in the lower grade of Khalasi but subject to not exceeding the highest pay permissible under that grade and subsequently he has been promoted to higher scale Rs.2650-4000 and all these facts are clearly mentioned in the order dated 8.1.2004. The applicant had not prayed for quashing the said order and was harping upon setting aside orders of 1993-1994. The applicant had failed in the trade test conducted in 1993 (Annexure R2) and subsequently passed the test vide order dated 25.7.2000 and thereafter was posted as Helper Khalasi by order dated 9.10.2000 and since then working as such.


5. After hearing learned counsel for both parties and perusing the records, we find that the applicant is shown to have failed in the trade test in Annexure R-2. He has not filed any document against it. Mere oral version of the applicant that he has not ~~filed~~ ^{been failed} in the trade test cannot be accepted in view of the aforesaid document filed by the respondents. Hence the applicant was given due opportunity by the respondents in appearing the trade test. We have perused the letter-



dated 13.3.92 (Annexure A13) written by the applicant in which he has mentioned that he is ready to work on the post of Khalasi and is not interested to go on transfer. He has not made any complaint to any higher authorities against this letter. The argument advanced on behalf of the applicant that this letter was got written under threat of respondents cannot be accepted and the applicant has not challenged the impugned order dated 8.1.2004 (Annexure A1), as contended by the respondents in their return.

6. Considering all facts and circumstances of the case, we are of the considered view that this OA has not merit and is liable to be dismissed. Hence the OA is dismissed. No costs.


(Madan Mohan)
Judicial Member


(M.P. Singh)
Vice Chairman

aa.


पृष्ठान्कन सं ओ/व्या.....जबलपुर, दि.....

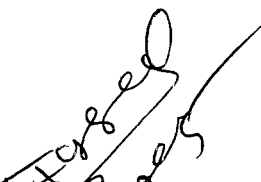
परि/वि/वि.....

- (1) सचिव, उच्च न्यायालय, जबलपुर
- (2) जिला मजिस्ट्रेट, जबलपुर
- (3) जिला मजिस्ट्रेट, जबलपुर
- (4) जिला मजिस्ट्रेट, जबलपुर

सूचना एवं आवश्यक कार्यवाही हेतु

उप रजिस्ट्रार


A.N. Bhat, Bhatla
H.Y. mht
PK 200


23.11.2005