

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH,
JABALPUR

Original Application No. 530 of 2004

Indore, this the 26th day of April, 2005.

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

Hon'ble Ms. Sadhna Srivastava, Judicial Member

Tej Singh Kushwaha aged
about 32 years S/o Late

Shri JaiKishan Singh Kushwaha,
Khallasi, resident of R.A. Kidwai
Ward, Roshan Nagar,
Tilak College Road, Katni(M.P.)

Applicant

(By Advocate – Shri L.S. Rajput)

VERSUS

1. General Manager,
West Central Railway,
Near Railway Station,
Jabalpur(M.P.)-482001.

2. Divisional Railway Manager,
West Central Railway, Habibganj.
Bhopal (M.P.)

3. Divisional Railway Manager,
West Central Railway,
Jabalpur(M.P.)-482001.

Respondents

(By Advocate – Shri M.N. Banerjee)

ORDER

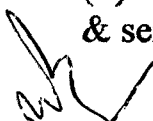
By M.P. Singh, Vice Chairman –

By filing this Original Application, the applicant has sought the following main relief :-

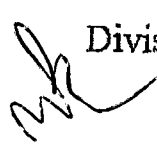
“(b) Quash the impugned order dated 8.6.2004(ANN.A-1) holding the same to be arbitrary, illegal & void.

(c) Direct the respondents to promote the applicant as Technician Grade III in pay scale of Rs.3050-4590(RSRP) either on Bhopal or Jabalpur Division, for which the applicant has already given his consent as desired by the Respondent No.1 during personal interview.

(d) Allow all consequential benefits including fixation of pay & seniority from the date his juniors were promoted.”

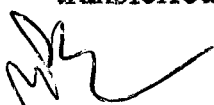


2. The brief facts of the case are that the applicant was appointed to the post of Khalasi in Electric Loco Shed (TRS) Itarsi in the scale of Rs.2550-3200 on 10.12.1998. On formation of a new Electric Loco Shed (TRS) at New Katni junction the applicant opted to go to new open cadre of TRS Loco Shed New Katni Jn. He joined the open cadre at New Katni Junction on 8.4.2002. During his service as Khalasi at Itarsi, a selection for filling the posts of Technician Grade-III in the scale of Rs.3050-4590 against 20% ranker's quota was conducted by respondent no.2 and the applicant was selected and placed on panel at serial no.7 which was published on 26.7.2002. The respondent no.2 directed all the selected candidates including the applicant for training and trade test vide letter dated 20.8.2002 with the direction to respondent no.3 to relieve the applicant for the said training. When no action was taken by the respondents to direct the applicant for training, the applicant submitted a representation for arranging his training. The respondent no.3 decided to impart training to the applicant in TRS/ Electric Loco Shed at New Katni Junction and also advised respondent no.2 accordingly. After successful completion of training, the applicant was directed for trade test for the post of Technician Grade-III which the applicant passed on 5.5.2003. The respondent no.3 sent the result of the trade test of the applicant to the respondent no.2 on 8/12.5.2003 for issuing necessary promotion orders but respondent no.2 returned the paper to respondent no.3 on 12.6.2003 asking respondent no.3 to issue promotion orders of the applicant on Jabalpur Division because the cadre of TRS/Loco Shed New Katni Junction was closed in August, 2002 and the lien of the applicant was terminated from Bhopal division thereafter. The applicant submitted a representation. The respondent no.3 again wrote to respondent no.2 to issue promotion orders of the applicant and to send the copy of such promotion order to respondent no.3 to enable him to promote the applicant on Jabalpur Division. This was felt necessary by respondent no.3 because the



promotion of the applicant was against 20% rankers quota of Bhopal division. The respondent no.3 was ready to absorb the applicant in Jabalpur Division. The respondent no.2 again refused to issue promotion order of the applicant vide his letter dated 30.9.2003. The respondent no.3 once again requested respondent no.2 to issue promotion orders of the applicant. After exchange of letters between respondents 2 and 3 on this issue, the respondent no.3 sent the case to respondent no.1 requesting him to direct respondent no.2 to issue promotion orders of the applicant. The respondent no.1 called necessary information from both the respondents 2 & 3. The applicant also took personal interview with the Chief Personnel Officer and expressed his willingness to accept promotion even in Bhopal Division. The respondent no.2 was neither prepared to issue formal promotion order of the applicant and send the same to respondent no.3 for absorption of the applicant as Technician Grade-III on Jabalpur Division, nor he was prepared to accept the applicant on the promotional post in Bhopal Division. Lastly, the impugned order dated 8.6.2004 was passed rejecting the claim of the applicant. Hence this Original Application.

3. The respondents in their reply have stated that on formation of Electric Loco Shed at Katni under Jabalpur Division options were called from different divisions. The applicant gave his option for new Electric Loco Shed at Katni from Itarsi under Bhopal Division and joined at Katni on 8.4.2002. The cadre was open for TRS Loco Shed Katni and was closed on 20.8.2002. Before closing of cadre, a selection was held for filling up the posts of Technician Grade-III in the pay scale of Rs.3050-4590 against 20% rankers quota at Bhopal Division and final panel was published on 20.7.2002. The applicant was sent for training and after completion of training he was declared successful in the trade test on 5.5.2003. In the meanwhile, the cadre of TRS Loco Shed Katni was closed as such the lien was automatically transferred to Jabalpur Division hence applicant can get promotion in



Artisan only on the basis of his seniority in substantive grade of Helper Grade-I at TRS Katni. They have further stated that the trade test was held for vacancy against 20% rankers quota meant for Bhopal Division and the cadre of TRS Electric Loco Shed Katni was closed and lien of the applicant stood transferred from Bhopal Division to Jabalpur Division and for promotion in Jabalpur Division he could be considered in Artisan only on the basis of his substantive grade seniority in the post of Helper Grade-I.

4. Heard the learned counsel of both the parties and perused the records carefully.

5. The undisputed facts of the case are that the applicant who was appointed as Khalasi in Electric Loco Shed, Itarsi opted for a new cadre – Electric Loco Shed at New Katni Junction, where he had joined on 8.4.2002. Before coming to the new cadre he had appeared in the selection for the post of Technician Grade-III against 20% rankers quota, the result of which was declared on 26.7.2002 and the applicant was placed in the panel. Thereafter, the applicant had been sent for training and he completed the training and passed the trade test on 5.5.2003. In the meantime the cadre of Electric Loco Shed TRS, New Katni Junction was closed on 20.8.2002.

6. The question for consideration is whether the applicant who had qualified in Technician Grade-III and had successfully undergone the training and also passed the trade test could be denied his promotion on the ground that at the time of completion of training and trade test his lien had been terminated from Bhopal Division where he had qualified the selection for the post of Technician Grade-III against 20% rankers quota. The respondent no.3 i.e. the D.R.M. Jabalpur has consistently been writing to the DRM Bhopal to promote the applicant and transfer him to Jabalpur where he will be promoted in the same rank but DRM Bhopal has not been taking action on the ground that the applicant does not have lien in Bhopal Division. The



matter has been referred to Chief Personnel Officer, who has passed the following order on 8.6.2004 (Annexure-A-1):-

"Before closing the cadre of TRS Shed NKJ/Jabalpur Division the option were called from the staff of TRS/Shed/NKJ to go back to their parent cadre upto 12/08/2002 against which Shri Tej Singh Kushwaha, Helper Khalasi-I had not submitted the option to go back to his parent cadre i.e. TRS Shed TRS/ET, Bhopal Division. Now in the closed cadre of TRS/NKJ Jabalpur Division the above named employee can get promotion in Artisan only on the basis of his substantive grade seniority in the post of Helper-I at TRS NKJ".

We find that the respondents have failed to produce any document whereby the applicant was informed to opt for his repatriation to Bhopal Division by 12.8.2002 and the applicant has given his refusal to go back to the parent department. We also find that the DRM Jabalpur vide his letter dated 29.7.2003 (Annexure-A-11) requested the DRM Bhopal to promote the applicant against 20% rankers quota as the selection was made against the vacancy of Technician Grade-III in Bhopal Division. It is further stated in the said letter that as per Para 1404 of the IREM lien of a transferred railway employee can be retained in the parent division for a period of two years and, therefore, the applicant should be promoted by the Bhopal Division and thereafter he may be transferred to Jabalpur Division so that the applicant can be promoted in Jabalpur Division.

7. From the facts stated above, it is clear that the as applicant had applied for his selection against a vacancy of Technician Grade-III against 20% rankers quota under DRM Bhopal before he had opted for transfer to NKJ Jabalpur and by the time the result has been published the cadre of NKJ was closed. However, as pointed out by the DRM Jabalpur his lien for further period of two years can be kept under DRM Bhopal in terms of the provisions of Para 1404 of the IREM, there is no justifiable reasons for the respondents to deny the



8. In the result, the respondent no.1 General Manager, West Central Railway, Jabalpur is directed to issue necessary directions for promotion of the applicant on the post of Technician Grade-III consequent to his aforesaid selection and grant him all consequential benefits within a period of two months from the date of communication of this order. The O.A. is accordingly allowed. No costs.

(Ms. Sadhna Srivastava)
Judicial Member

(M.P. Singh)
Vice Chairman

पृष्ठांकन सं ओ/न्या.....जबलपुर, दि.....

पलिलिपि अद्यो दितः—

- (1) सदस्य, उच्च न्यायालय का राज्य एडवोकेटजनरल, जयपुर
 (2) जज (न्यायाधीश) / पीपीएफ के कार्यालय
 (3) कार्यवाही सी/सीआई/एड के कार्यालय
 (4) अध्यक्ष, पी.डी. व.एस.एस. एस.पी.ओ.
 सूचना एवं आवश्यकता कार्यवाही

उप रजिस्ट्रार

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