

**CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR,**  
**JABALPUR**

**Original Application No. 692 of 2004**

Bilaspur, this the 16<sup>th</sup> day of March, 2005

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

Harish Chandra Mishra, S/o. Shri  
Gouri Shankar Mishra, Date of birth –  
10.7.1951, R/o. H. No. 16/26, Nayagaon,  
New Katni Junction, District Katni (MP). .... Applicant

(By Advocate – Shri V. Tripathi on behalf of 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,  
Jabalpur Division, Jabalpur.
3. Shri D.P. Parashar, Divisional  
Personnel Officer (Adhoc), O/o. Divisional  
Railway Manager, West Central Railway,  
Jabalpur Division, Jabalpur. .... Respondents

(By Advocate – Shri M.N. Banerjee)

**O R D E R**

**By Madan Mohan, Judicial Member –**

By filing this Original Application the applicant has claimed the following main relief :

“(ii) upon holding that the action of the respondents in declaring the applicant as fail in the viva voce is bad in law, command the respondents to treat the applicant as regularly appointed on the post of JE Grade-II w.e.f. 31.8.2000 when his juniors/contemporaries were impaneled with all consequential benefits.”



2. The brief facts of the case are that the applicant was initially appointed as Trainee Fitter on 26.7.1974. He was promoted to the post of Junior Engineer Grade-II on adhoc basis on 2.3.1998. He was called for regular selection as JE Grade-II after the cadre of TRD was closed and was placed at serial No. 3. The applicant qualified the trade test and was placed at serial No. 1. The grievance of the applicant is to consider his promotion/selection in the light of the Railway Board's directives which are applicable in the case of the applicant and interpolate his name in the selection panel at the appropriate place. In this regard he made representation to the respondents but when it was not decided by the respondents, he filed an Original Application No. 777/2000, whereby the Tribunal vide its order dated 6<sup>th</sup> January, 2004 has directed the respondents to consider and decide his representation within a stipulated period. The respondents vide impugned order dated 19.8.2004 rejected the representation of the applicant. Hence, this Original Application is filed.
3. Heard the learned counsel for the parties and carefully perused the pleadings and records.
4. It is argued on behalf of the applicant that the facts of the present case are exactly similar to the order passed by the Tribunal in OA No. 211 of 1995 – Moolchand & Ors. Vs. Union of India and Ors., decided on 13<sup>th</sup> March, 2001 and the judgment passed by the Hon'ble Supreme Court in SLP(c) No. 9866/1993 - R.C. Shrivastava Vs. Union of India and Anr., decided on 3.11.1995.
5. On the other hand the learned counsel for the respondents vehemently opposed to the argument of the learned counsel for the applicant and stated that the facts of the present case are not exactly similar to the facts of the aforesaid cited cases.
6. After hearing the learned counsel for the parties and on careful perusal of the pleadings and the judgments cited by the learned counsel

for the applicant, we find that the facts of the present case are exactly similar in all fours to the facts of cited cases. The Tribunal in the aforesaid case has observed as under :

“7. Accordingly, this OA is partly allowed with a direction to the respondents that based on the selection ordered an panel prepared on 14.12.1993, the applicants shall be deemed to be regularized on to the post of Fireman Grade-I/Diesel Assistant w.e.f. the same date their juniors were regularized based on the said panel and the seniority determined accordingly.”


The Hon'ble Supreme Court in the aforementioned case observed as under :

“The appeal is, therefore allowed and the impugned judgment of the Tribunal dated June 11, 1993 is set aside, and it is declared that the appellant should be considered to have been selected for the post of Law Assistant in the selection for the said post as per the panel dated November 29, 1992. No costs.”

Hence, the aforesaid quoted decisions so taken by the Tribunal as well as by the Hon'ble Supreme Court shall mutatis mutandis applicable to the present case.

7. Accordingly the Original Application is allowed with a direction to the respondents that based on the selection ordered and panel prepared on 31.08.2000, the applicant shall be deemed to be regularized on the post of Junior Engineer Grade-II with effect from the same date his juniors were regularized based on the said panel and the seniority determined accordingly. No costs.

  
(Madan Mohan)  
Judicial Member

  
(M.P. Singh)  
Vice Chairman

“SA”