

CENTRAL ADMINISTRATIVE TRIBUNAL
JABALPUR BENCH

OA No.224/03

Jabalpur, this the 17th day of December 2004.

CORAM

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

1. M.K.Devangan
S/o Shri M.L.Devangan
Passenger Train Driver
Diesel Colony, New Katni Jn.
Katni.
2. I.S.Chaturvedi
C/o B.P.Gupta
Ambedkar Ward Gayatri Nagar
Katni.
3. S.K.Tamrakar
S/o Shri R.G.Tamrakar
R/o New Katni Junction
Katni (MP)

Applicants.

(By advocate Shri V.Tripathi)

Versus

1. Union of India through
the Secretary
Railway Board
New Delhi.
2. The Divisional Railway Manager
Jabalpur(MP)
3. Rakesh Kumar Agrawal
Senior Grade Driver/Loco Inspector
Office of DRM, Jabalpur.

Respondents.

(By advocate Shri M.N.Banerjee)

O R D E R

By Madan Mohan, Judicial Member

By filing this OA, the applicants have sought the following reliefs:

(i) Direct the respondents 1 & 2 to select the applicants for the post of Loco Inspector in the grade of Rs. 6500-10500 by promotion as per the Notification dated 18.10.01 and on the basis of selection on merit cum seniority as per the guidelines issued by the Railway Board dated 20.10.99 and to consider the case of promotion of the applicants with retrospective effect with all financial benefits and seniority.



(ii) To quash the selection of respondent No.3.

2. The brief facts of the case are that the applicants are employed in the establishment of Central Railways. They were promoted as Passenger Drivers with effect from 25.7.2000, 22.10.02 and December 2000 respectively. The applicants are eligible to be promoted as Loco Inspector in the higher scale of Rs.6500-10500. A notification was issued on 18.10.01 for formation of a panel for selection to the post of Loco Inspector in the above grade. All the drivers in various grades working as driver in Mail, express, passenger, senior goods driver and goods driver having ~~2~~ 3 years' experience as foot plate duty as Goods Driver are eligible to submit their applications in the prescribed manner. The applicants having 3 years² experience, they submitted their applications for ~~formation~~ of the panel (Annexure A1). The applicants were allowed to appear in a written test. Respondent No.3 who had not completed the eligibility criteria and is not eligible to appear in the written test has also been permitted to appear in the written test. The applicants were declared successful in the written test and were called upon to appear in the viva voce. The applicants have not been selected for promotion to the post of Loco Inspector. It was incumbent on the authority to include the anticipatory vacancies after issuance of the impugned circular dated 18.10.01 upto 15 months. But in the present case, the anticipatory vacancies upto 15 months after 18.10.01 have not been included to the cadre of Loco Inspector. Respondent No.3 who is much junior and much lower in merit has been selected and appointed as Loco Inspector vide order dated 13.3.03 (Annexure A4). Hence this OA is filed.



3. Heard learned counsel for both parties. It is argued on behalf of the applicants that they have completed 3 years' experience which was required for promotion for the post of Loco Inspector. They appeared in the written test and were declared successful but they were not promoted. Respondent No. who had no requisite experience and was not eligible to be permitted to appear in the written test, even then he was permitted to appear in the written test as well as viv voce and was declared successful and accordingly he was appointed as Loco Inspector. The counsel argued that the applicants have filed a rejoinder in which they have filed Annexure RJ2 which clearly shows that respondent No.3 has only experience of 30 months i.e. apparently less than 3 years. The version of the respondents is wrong and against records.

4. In reply, learned counsel for respondents argued that the applicants had applied for the post of Loco Inspector and appeared in written test conducted on 21.12.02 and found suitable as per result declared. They were called to attend viv-voce on 6.3.03 but they were not found suitable as per result declared. The applicants have fulfilled the conditions applicable for selection to the post of Loco Inspector hence they were allowed to appear in written test and viva voce. Respondent No.3 who fulfilled the conditions for the post of Loco Inspector was allowed to appear in the written test conducted on 21.12.02. It is wrong to say that he had not completed the eligibility criteria. Respondent No.3 was qualified in the written test and he was declared suitable for viva-voce. The final panel should be drawn up on the basis of mark obtained in the written and viva voce test. As such there is no provision of seniority marks. Rakesh Agrawal has been selected as Loco Inspector, hence he is posted as such vide order dated 20.3.03. The applicants were not found suitable in viva-voce hence not selected for Loco Inspector Posts.



5. After hearing learned counsel for both parties and careful perusal of the records, we find that the applicants had fulfilled the conditions applicable for selection to the post of Loco Inspector. Hence they were permitted to appear in written test and viva-voce. They succeeded in written test but they failed in viva-voce and hence they could not be appointed as Loco inspector. On the other hand, respondent No.3 was also eligible for the post of Loco inspector as he had completed 3 years footplate working as driver as alleged by the respondents while the applicants have submitted Annexure RJ2 with the rejoinder in which they have mentioned this period of experience of respondent No.3 as 30 months, and not 3 years. Respondents were directed to produce a copy of the selection committee proceedings including the record relating to the fact that private respondent No.3 has worked for 3 years which is the minimum qualification for applying for the post of Loco Inspector. The respondents have not yet produced the aforesaid documents in compliance with the order of the Tribunal dated 8th Oct. 04. Hence in the absence of the aforesaid documents, we presume that the contention of the applicants about respondent No.3 Rakesh Kumar Agrawal seems to be correct i.e. he has not completed experience of 3 years but he has completed an experience of 30 months only.

6. We have perused the notification dated 18.10.01 (Annexure A1) in which it is clearly mentioned that from Goods Driver to Loco Inspector, 3 years' experience as foot plate duty as Goods Driver was mandatory while respondent No.3 has not completed this 3 years' experience as Goods Driver while the respondents had permitted him to appear in the written

test. According to para 215 of IREM, promotion can be effected after expiry of the due period and the employee can be promoted earlier but his promotion shall be effective actually after the expiry of the respective period but this para of IREM is not applicable in this case. For the post of Loco Inspector, 3 years' experience as foot plate duty Goods Driver was a mandatory condition. It was not fulfilled in the case of respondent No.3. Hence the arguments advanced on behalf of the applicant about respondent No.3 seems to be correct that he was not eligible to appear even in the written test while he was permitted by the respondents against rules.

7. Considering all the facts and circumstances of the case, we are of the considered opinion that the applicants are not entitled for the reliefs claimed in sub para (i) of the reliefs, for promotion as they could not succeed in the viva voce test but so far as the relief in sub para (ii) is concerned, the selection order dated 13.3.03 in favour of respondent No.3 Rakesh Kumar Agrawal is quashed and set aside.

8. The OA is disposed of accordingly. No costs.


(Madan Mohan)
Judicial Member

aa.


(M.P. Singh)
Vice Chairman

*Entered
on 21/12/04*

पृष्ठांकन जै लो/न्या.....जवालपुर, दि.....
प्रतिदिवसी जारी किया:-
(1) सरिया, उच्च राज्यकार्यकालीन विभाग, जवालपुर
(2) अधेकाल श्री/मिस/इ..... रोड फाउंडेशन
(3) प्रस्तुती की/श्रीकारी/इ..... द्वारा प्राप्त
(4) ग्रामपाल, कोपाइ, जवालपुर उप.प्र
सूचना एवं आवश्यक कार्यकालीन देतु
उप संचित्तार

*V.T. Borthi 20/12/04
M.N. Duggal 20/12/04*