

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 745 of 2002

Jabalpur, this the 13th day of July, 2004

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

A.K. Chouksey,
Son of Shri N.P. Chouksey,
Aged about 53 years,
Assistant Chief Ticket Inspector,
Central Railways, Jabalpur M.P.
Resident of Plot No.553, Sanjeevani
Nagar, Garha, Jabalpur, District
Jabalpur M.P.

APPLICANT

(By Advocate - Shri S.C. Sharma)

VERSUS

1. Union of India, through the Secretary,
Ministry of Railways,
Government of India,
Rail Bhawan, New Delhi.
2. General Manager,
Central Railways,
Chhatrapati Shivaji Terminus,
Mumbai MS.
3. Divisional Railway Manager,
Central Railways, Central
Division, Jabalpur M.P.
4. Divisional Personnel Officer,
Central Railways,
Jabalpur M.P.
5. Shri Jugal Kishore Kewat,
6. Shri N.K. Jain
7. Shri N.K. Odela,

Respondents 5,6 and 7 Chief Ticket
Inspectors, Through Divisional
Personnel Officer, Central Railways
Jabalpur Division
Jabalpur M.P.

RESPONDENTS

(By Advocate - Shri M.N. Banerjee)

ORDER (ORAL)

By M.P. Singh, Vice Chairman -

By filing this OA, the applicant has sought the
following main reliefs :-

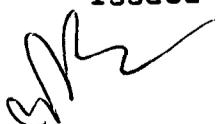
"(II) to declare that supersession of applicant to
the post of Chief Ticket Inspector and promotion/
appointment of respondents 5,6 and 7 is illegal,
arbitrary, unjustified and hit by the vice of
bias and favouritism.



(III) to direct the respondents to re-consider the case of applicant for promotion/appointment to the post of Chief Ticket Examination in the pay scale of Rs. 6500-10,500.00 with reference to notification Annex-A1 and by including the three posts which were available at the relevant time and grant him promotion as such in the interest of justice.

(IV) to direct respondents to grant all consequential benefits pursuant to applicant's promotion/appointment to the post of Chief Ticket Inspector including seniority over and above private respondents, pay fixation, increment, arrears of difference of pay etc.etc. as per rules".

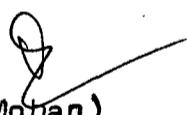
2. Heard the learned counsel for the parties.
3. The admitted facts of the case are that the applicant was working as Assistant Chief Ticket ~~Collector~~ ^{Inspector}. He has participated in the selection for the next higher grade of Chief Ticket Inspector. The applicant has qualified in the written examination held on 18.8.2001. He was called for interview and had participated in viva voce but he was declared failed. Three persons junior to him i.e. respondents 5, 6 & 7 were declared successful and were appointed. The contention of the learned counsel for the applicant is that the applicant has failed in viva voce. According to the circular issued by the Railway Board dated 7th Aug. 2003 (copy placed on record), there is no necessity of holding viva voce and the selection should be made on the basis of written examination only. He has also relied upon a letter dated 19th March 1976 issued by the Railway Board whereby persons should be appointed to the next higher grade on the basis of their seniority.
4. On the other hand, the learned counsel for the respondents states that the circular of 1976 has been superseded/modified by the aforesaid circular of 7.8.2003. As per the circular of 7.8.2003 the selection is to be made on the basis of performance in the written examination only. The selection of the applicant has been made in the year 2001, and the circular issued on 7.8.2003 will not have any retrospective effect.



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5. We have given our careful consideration to the rival contentions of both the parties. It is not disputed that the applicant has participated in the selection process for the post of Chief Ticket Inspector and he has qualified in the written examination but has failed in viva voce. At that time, the selection was required to be made on the basis of performance both in written examination and viva voce. The circular of 2003 on which the applicant has placed reliance will not have retrospective effect. Para 5 of the circular specifically states that the procedure as revised will be applicable to selections notified on or after the date of issue of the said circular. As regards the circular issued on 19.3.76 the reliance placed by the applicant has also no applicability in this case as that circular is applicable only on adhoc appointments. Since the applicant was not considered for adhoc promotion the circular of 19.3.76 will not be applicable in this case.

6. For the reasons recorded above, the OA is without merit and is liable to be dismissed and we do so accordingly.
No costs.


(Madan Mohan)
Judicial Member


(M.P. Singh)
Vice Chairman

SKM

कृतांकन द्वारा/व्या.....जललपुर, दि.....
कृतांकन द्वारा/व्या.....जललपुर, दि.....
(1) लालेश, उत्तर प्रदेश कांगड़ा उप-नियमित, जललपुर
(2) शोभेश्वर द्विविहारी.....को कांगड़ा SC मर्मान
(3) प्रसादी द्विविहारी.....को कांगड़ा MN T Samaj
(4) अमरेश, द्वेषी, कांगड़ा, उप-नियमित
सुनिधा एवं आदर्शक कांगड़ा उप-नियमित
उप रजिस्ट्रार 22-7-04

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