

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 109 of 1999

Jabalpur, this the 25th day of August, 2003.

Hon'ble Mr. D.C. Verma Vice Chairman(Judicial)
Hon'ble Mr. Anand Kumar Bhatt, Administrative Member

1. Mahendra Kumar Tiwari
S/o Shri Uma Shankar Tiwari
aged about 47 years, R/o
Ahandganj-ki-zri, Ujjain.
2. Vishnu Kumar Tiwari,
S/o Shri Purushottam Tiwari
aged about 42 years, R/o
Santhram Sindhi Colony,
Ujjain.
3. Moolchand Kori,
S/o Shri Ramlal Kori
aged about 39 years,
R/o LIG-II, 265, Vishwa
Bank Colony, Agra, Road,
Ujjain (MP)

APPLICANT

(By Advocate - Shri K.N. Pethia)

VERSUS

1. Union of India
through the Secretary
Ministry of Railway
Government of India
Rail Bhawan, New Delhi
2. General Manager (Western Railway)
Church Gate, Mumbai.
3. Divisional Railway Manager
(Western Railway)
Ratlam Division, Ratlam.
4. Station Manager,
Railway Station, Ujjain,
District-Ujjain.

RESPONDENTS

(By Advocate - Shri M.N. Banerjee)

O R D E R (ORAL)

By D.C.Verma, Vice Chairman(Judicial)-

The applicant has prayed for quashing of the order dated 18.11.1998(Annexure-A-9) by which the applicant has been refused permission to appear in the selection for the post of Goods Guard in the scale of Rs.4500-7000.

2. The brier facts of the case is that the applicant has been working on the post of Chier Trains Clerk on regular basis in the scale of Rs.1400-2300 revised to Rs.5000-8000. The respondents advertised vacancies for selection to the post of Goods Guard in the scale of Rs.4500-7000. The applicant made an application but was refused permission by the impugned order on the ground that the applicant's scale is higher than the scale of the advertised post.

3. The respondents' case is that the applicant and similarly ^{placed} other Chier Trains Clerk were declared surplus. The surplus employees were redeployed. The applicant was redeployed *vide Annexure-R-1* dated 6.4.1993 and was posted in the scale of Rs.1600-2660. The applicant joined and has been working on the said post. This order was never challenged by the applicant. However, when the selection for the post of Goods Guard was notified the applicant applied therefor but was refused the permission.

4. Counsel for the parties have been heard at length.

5. The submission of the learned counsel of the applicant is that one R.K.B.Rathore was also in the scale of Rs.1400-2300 who was declared surplus but was permitted to be redeployed on the post of Goods Guard in the old scale of Rs.1200-2040 (Annexure-A-15). It is submitted that the applicant is being discriminated and has not been given the same treatment. The learned counsel has also placed reliance on the decision of this Bench in O.A.No.587 of 1992 in re Harendra Singh Tomar Vs. Union of India and others decided on 5.10.1994.

6. The order in respect of R.K.B.Rathore was passed on 26.8.1994 (Annexure-A-15) as Shri Rathore had

consented to be redeployed on a lower scale of Rs.1200-2040. There is nothing on record to show that the applicant had prior to redeployment in the year 1993 (Annexure-R-1) made any such request. The applicant was redeployed and was given a higher scale of Rs.1500-2660 in 1993. The applicant joined the post and that order was not challenged at any stage. Even in this OA the order is not under challenge. Keeping that order intact the applicant wants that he be given chance to appear for selection to the post of Goods Guards, which admittedly carries lower scale of pay. The case of the applicant cannot be compared with the case of R.K.B.Rathore. The applicant already stands redeployed in 1993 and as mentioned earlier that order still stands, Consequently, his claim for opportunity to appear in the selection for the post of Goods Guard cannot be granted.

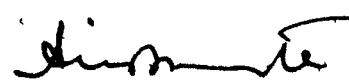
7. The decision of this Bench in OA 587/1992 does not give any relief to the applicant. In the cited OA also the selection for the post of Goods Guard in the pay scale of Rs.1200-2040. The requirement was that persons holding post in the scale of Rs.1200-2040 and below would be eligible to appear in the competitive test. The applicant in that case was in the regular pay scale of Rs.1200-2040, however, on adhoc basis he was holding the post in the scale of Rs.1400-2300. The Tribunal granted the permission to the applicant to appear in the test. The cited case was not a case where the employee has already been redeployed to some other post.

8. Annexure-A-7 dated 17.9.1998 gives the names of the posts and the scales which they carry, which have been made eligible to appear in the test for

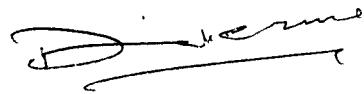
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Goods Guard. The applicant does not come in any of the said category. The highest scale in the eligible category is Rs.4000-6000 which has been made eligible for selection to the post of Goods Guard in the scale of Rs.4500-7000. As the applicant is in the higher scale of pay and already redeployed, he has been rightly held ineligible for selection.

9. The O.A. has, therefore, no merit and is dismissed. Costs easy.



(Anand Kumar Bhatt)
Administrative Member



(D.C.Verma)
Vice Chairman(Judicial)

rkv.

प्रांकन सं ओ/स्या.....जबलपुर, दि.....
परिवहनी के अधीनीकन के काउंसल, जबलपुर
(1) राजस्थान के लोडर के लिए भौमिका, जबलपुर
(2) राजस्थान के लोडर के काउंसल
(3) राजस्थान के लोडर के काउंसल
(4) राजस्थान के लोडर के काउंसल

K. N. Datto Patel
Mr. Bapna Patel


9.9.03

Isced: 6/9/03