

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR
BENCH, JABALPUR

CIRCUIT COURT SITTING HELD AT INDORE

O.A. NO. 211/1997

Gopal, S/o. Bherulal Solanki,
Feul Checker cum clerk,
Diesel Shed, Ratlam.

..... **Applicant**

V e r s u s

Union of India through -

1. General Manager,
Western Railway,
Churchgate, Mumbai-20.
2. Divisional Rail Manager,
Western Railway, Ratlam.

..... **Respondents**

Counsel :

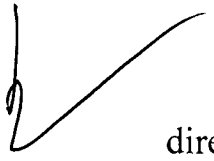
Shri A.N. Bhatt for the applicant.
Shri Y.I. Mehta, Sr. Adv. assisted with Shri H.Y. Mehta for the
respondents.

Coram :

Hon'ble Shri Justice N.N. Singh – Vice Chairman.
Hon'ble Shri Govindan S. Tampi – Member (Admnv.).

ORDER (Oral)
(Passed on this the 18th day of February 2003)

Shri Govindan S. Tampi :-

 The relief sought for in this Original Application is the issuance of
directions to the respondents to consider the case of the applicant for

absorption to the qualifying grade of Rs. 950-1500/- instead of Rs. 825-1200/- and the replacement scales thereafter.

2. Heard S/Shri A.N. Bhatt learned counsel and Y.I. Mehta, Sr. Adv. assisted by H.Y. Mehta learned counsel appearing for the applicant and respondents, respectively.

3. The applicant who was working as a Diesel Mechanic in Diesel Shed, Ratlam on regular basis in scale of Rs. 950-1500/- was subjected to medical examination on 13/10/1990 which showed that "fitness for original job but not to work near fire, water and moving machine". The respondents thereafter withdrew the applicant from the job of Diesel Mechanic, on medical de-categorization. Thereafter he was absorbed against the post of Fuel Checker, which is in the lower grade scale of Rs. 825-1200/-. The applicant have been claiming that even though he was medically de-categorized he was entitled for being placed in the alternative job in the same scale. In this respect he is relying upon Master Circular No. 25, which is as below :

"The medically de-categorized staff absorbed in alternative post, whether in the same or other cadres, should be allowed seniority in the grade of absorption with reference to the length of service rendered in the equivalent or corresponding grade, irrespective of the rate of pay fixed in the grade of absorption. In the case of the staff who are in grade higher than the grade of absorption at the time of medical de-categorization total service in the equivalent and higher grade is to be taken into account. This is subject to the proviso that if a medically de-categorized employee happens to be absorbed in the cadre, from which he/she was originally promoted, he/she will not be placed above his/her erstwhile seniors in the grade of absorption".

4. He further states that he had a vested right in-spite of medical de-categorization in being kept in the same grade and even if in any other



Departments and now he is in a position to do the job, therefore the respondents should immediately consider his case. The Department having failed to do so have committed irregularity which this Tribunal can interfere and grant him justice.


5. On behalf of the respondents Shri Y.I. Mehta, Sr. Adv. appearing with Shri H.Y. Mehta submitted that the applicant was absorbed in alternative job though with lesser grade, however protecting his total emoluments on the date of absorption in terms of his own request dated 12/07/1991 which is as under :

"I have been de-categorized for B/1 due to sickness and alternate job has been offered to me.

Sir, due to my sickness and other family problem, I am not in a position to move out of the room. My father also retired from Rly. service.

I am ready to accept posting as Jr. Clerk at RTM. One vacancy of Jr. Clerk is likely to be vacated at RTM till such time I may please be allowed to work in DSC shed".

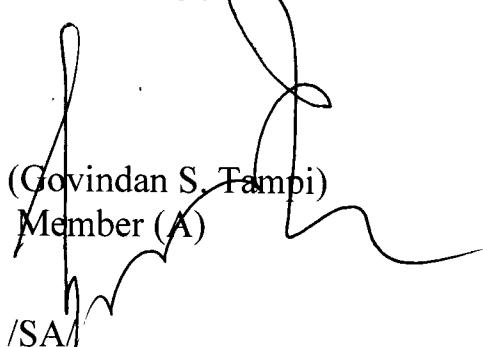
6. The applicant was originally found fit for the post of Diesel Mechanic following de-categorisation and keeping in mind his option, he was absorbed in the post of Clerk carrying the grade to which he was suitable by the screening committee. This was just and proper. The applicant had not met any senior officer from the respondents' organisation against the reduction in his pay and emoluments. As he had been not found fit for promotion, he could not have been absorbed in the higher post. The applicant's allegation that certain others, who were de-

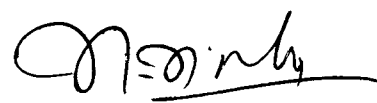


categorised similarly, were absorbed in the higher grade in preference. The OA, therefore, has to be dismissed, according to the respondents.

7. We have carefully considered the matter. It is on record that the applicant, who though originally was appointed as Diesel Mechanic, was on medical de-categorisation appointed in the clerical grade, which corresponded with the level of medical categorisation. The applicant is found to have, by his letter dated 12.7.1991, indicated his preference to be in the clerical line so that he can continue to be in Indore. At the same time, it is seen that the Railway Board's letter dated 13.6.1979 with an equivalent alternate grade was not available, resulting in the absorption of the employee in the lower grade. It was for the administration, on its own, to look into the matter and review the position. On account of the above that the applicant has been seeking that he should be absorbed in the higher grade of Rs.950-1500/- instead of in the grade of Rs.825-1200/- with consequential benefits. However, as he had not cleared the screening test for continued absorption in the higher scale, the Tribunal cannot direct the respondents that the applicant be suo moto placed in the higher scale of Rs.950-1500/- with consequential scales of pay.

8. In the above view of the matter, the OA having no merit, fails and is accordingly dismissed. No costs.


(Govindan S. Tampi)
Member (A)
/SA/


(N.N.Singh)
Vice Chairman

Issued
on 6.3.03
BS

पृष्ठांकन सं ओ/न्या.....जबलपुर, दि.....
परिचयित: लक्ष्मी देवी (म) :-

- (1) यशोवन्त, लक्ष्मी देवी का पुत्र, जबलपुर
- (2) लक्ष्मी देवी का पुत्र, जबलपुर
- (3) लक्ष्मी देवी का पुत्र, जबलपुर
- (4) लक्ष्मी देवी का पुत्र, जबलपुर

DR Bhatt, ACO DHO
YI - mehta - ACO DHO

उप निमित्त
4/3/03