

CENTRAL ADMINISTRATIVE TRIBUNAL  
JABALPUR BENCH  
CIRCUIT AT INDORE  
O.A. NO.282/1999

This the 4th day of September, 2003

HON'BLE SHRI V. K. MAJOTRA, MEMBER (A)  
HON'BLE SHRI J. K. KAUSHIK, MEMBER (J)

Ganeshi S/O Pyarelal,  
Gangman, Daily Track Maintenance,  
Sr. Gangman, Gang No.3,  
Railway Station, Roonkheda,  
under Chief Permanent Way Inspector,  
(North) Ratlam.

... Applicant

( By Shri G.L.Gupta, Advocate )

-versus-

1. Union of India through  
General Manager,  
Western Railway, Hqrs. Office,  
Churchgate, Mumbai.

2. Divisional Rail Manager,  
Western Railway,  
Do-Batti, Ratlam.

3. Senior Divisional Engineer (HQ),  
Western Railway, Divisional Office,  
Ratlam.

... Respondents.

( By Shri Y. I. Mehta, Sr. Adv. With Shri H.Y.Mehta )

O R D E R (ORAL)

Hon'ble Shri V.K.Majotra, Member (A) :

Applicant who has been working as Senior Gangman is stated to have undergone training course for the post of Thermit Welder in 1990 vide Annexure A-3 dated 12.11.1990 and in 1996 vide Annexure A-4 dated 20.1.1996. Respondents conducted a trade test for promotion to the post of Thermit Welder scale Rs.3050-4590 (RSRP) on 8.12.1998 (Annexure R-1). Applicant was eligible to take the test but he could not appear in the same as he happened to be on leave from 7.12.1998 to 19.12.1998 having gone to his native place in U.P. (Annexure A-7 dated 18.12.1998.

2. Admittedly, since applicant could not be informed about the date of examination at his native place while he was on leave by the mistake of Chief Permanent Way Inspector, who has been chargesheeted for negligence in this regard, Respondents organised a special trade test for applicant which he passed and his name was interpolated in the earlier panel dated 22.2.1999 (Annexure A-1). Respondents have stated that the juniormost employee Shri Goman Kalia has been reverted to his original post of Senior Gangman in order to accommodate applicant on the post of Thermit Welder (Annexure R-2 dated 30.10.2000), however, applicant has been granted promotion to the post of Thermit Welder in scale Rs.3050-4590 on pro forma basis w.e.f. 11.3.1999 (Annexure R-3).

3. Admittedly, applicant had missed the opportunity to take the trade test for the post of Thermit Welder on the notified dates as respondents had not communicated the same at his leave address. Applicant has suffered from denial of participation in the trade test at the appropriate time due to administrative muddle for which applicant cannot be blamed at all. Although respondents have taken action to interpolate applicant's name in the list of successful candidates in the trade test (Annexure A-1) as applicant had passed the especially organised trade test for him at a later stage, yet h the benefit of promotion to applicant on the post of Thermit Welder has been restricted to pro forma basis and not actual basis. It is an established law that when promotion has been denied to a candidate for no fault of his but due to administrative lapses, adverse consequences have not to visit upon applicant. He has

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to be accorded consequential benefits on actual basis and not pro forma basis as if he had taken the trade test on schedule, and promoted along with the other candidates.

4. If one has regard to the reasons stated above, this O.A. must succeed and applicant must have consequential benefits as if he had been declared successful along with other candidates on 22.2.1999 itself (Annexure A-1). Accordingly, the O.A. is allowed and respondents are directed to grant to applicant <sup>and not pro forma</sup> ~~in~~ actual promotion on the post of Thermit Welder in scale Rs.3050-4590 w.e.f. 11.3.1999 in relation to the promotion of applicant's junior Shri Ravi Shankar Madan. Respondents may modify Annexure R-3 dated 15.2.2001 in accordance with the above directions within a period of two months from the date of communication of these orders. No orders as to costs.

J. K. Kaushik  
( J. K. Kaushik )  
Member (J)

V. K. Majotra  
( V. K. Majotra )  
Member (A)

/as/

प्रृष्ठांक सं. ओ/न्या.....जबलपुर, दि.....

प. अधिकारी अधिकारी

- (1) अधिकारी, राज्य नियन्त्रण एवं विकास, जबलपुर
- (2) अधिकारी, विद्युतीय, जबलपुर
- (3) अधिकारी श्री/गौतमी/दृष्टि, जबलपुर
- (4) अधिकारी, लेपण, जबलपुर व्यापारी

सूचना एवं आवश्यक कार्यवाही हेतु

J. K. Kaushik  
ठाकुर जिल्हा प्रशासन  
16/9/03

*L. Gupta, Asst. Secy. Pashan  
V. K. Majotra, Add. Mdo. of  
S. Mehta, Add. Mdo.*