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CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 316 of 2000

Jabalpur, this the 22nd day of January, 2004

Hon'ble Shri M.P. Singh, Vice Chairman
Hon'ble Shri G. Shanthappa, Judicial Member

1. Kanaiya Lal, S/o. Ram Deo,
Junior Engineer-I, Diesel
Trip Shed/Satna, Central
Railway.
2. Rajesh Kumar Jain, S/o.
Hukum Chand, Junior Engineer-I,
Diesel Trip Shed/Satna,
Central Railway. ... Applicants

(By Advocate - Shri Ramesh Shrivastava)

V e r s u s

1. The Union of India,
through the Secretary to
Govt. of India, Ministry
of Railways, Rail Bhawan,
New Delhi.
2. The General Manager,
Central Railway/Mumbai-CST.
3. The Chief Personal Officer (M),
Central Railway/Mumbai-CST.
4. The Divisional Rail Manager (P),
Central Railway/Jabalpur.
5. The Sr. Divisional Mech. Engineer,
Diesel Shed/Central Railway,
New Katni Jn.
6. Sri Vijay Khampariya, Junior
Engineer-I, C/o. Sr. DME (D),
New Katni Jn.
7. Sri Markanday Ram, Junior
Engineer-I, C/o. Sr. DME (D),
New Katni Jn. ... Respondents

(By Advocate - Shri M.N. Banerjee for the official respon-
dents)

O R D E R (Oral)

By M.P. Singh, Vice Chairman -

By filing this Original Application the applicants
have sought the following reliefs :-

"(1) That the respondent No. 3 may please be ordered

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to produce the Seniority list circulated by him under his letter No. HPB/785/M-3/R&M/Diesel dt. 18.9.98.

(2) The respondent No. 4 may please be ordered to produce the sanctioned list of the Junior Engineers-I of Mechanical Branch Gr. 5500-9000 of Diesel Shed, New Katni Jn. and Trip Shed Satna as circulated vide his L. No. JBP/P/184/M-2/D/Seniority list dt. 22.4.98.

(3) That the respondents No. 3 & 4 may please be ordered to show the specific reasons for not calling the applicants to appear in the written test for selection & promotion in the higher Gr. 6500-10500 (RSRP) on the post of the Section Engineer (Loco) in Mechanical Department.

(4) That the respondent No. 3 & 4 may please be ordered to quash the promotional order No. 27/99 dated 3.6.99 under which the quite junior staff has been promoted in a wrongful manner by ignoring the applicants being the seniormost."

2. The brief facts of the case as stated by the applicants are that both the applicants were appointed as Appr. Junior Engineer-II with effect from 19.05.1983 and 26.02.1985 respectively. They were subsequently promoted as Junior Engineer-I in the grade of Rs. 5500-9000 (RPs) with effect from 28.12.1989 and are presently working at Trip Shed (Diesel), Satna. The applicants are eligible for next promotion to the post of Section Engineer (Mechanical) in the scale of Rs. 6500-10500/-. The applicants have earlier passed the written test in the year 1996, 1997 and 1998, but they could not qualify in the viva-voce. The promotion to the post of Section Engineer (Mechanical) requires a candidate to participate and pass in the written test as well as viva-voce. The next selection for the post of Section Engineer was scheduled to be held on 10.10.1998 and supplementary exam on 25.10.1998, but the same was postponed. The written test was again fixed for 09.01.1999 and supplementary test on 23.01.1999. The applicants were not informed and therefore they could not participate in the selection. The private respondents Nos. 6 and 7 had appeared and qualified in the test and were appointed as Section

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Engineer vide order dated 03.06.1999 (Annexure A-1). The respondent No. 6 Shri Vijay Khampariya is junior to both the applicants and has been appointed to a higher ^{post &} pay. Aggrieved by this the applicants have filed this Original Application claiming the aforesaid reliefs.

3. Heard the learned counsel for the parties and perused the records carefully.


4. The learned counsel for the applicants has stated that the applicants were not informed about the date of the selection which was held on 09.01.1999. Therefore they could not participate in the selection. To support their claim the applicants have relied upon the letter dated 8th March, 1999 (Annexure A-8), wherein the office of the DRM, Jabalpur has addressed a letter to Chief Crew Controller, Satna. In this letter it is stated that as per eligibility list circulated by CPD, Mumbai, vide letter dated 18.09.1998, Shri R.K. Jain, JEI has been shown at S. No. 11 and Shri K. Lal Singh, JEI has been shown at S. No. 9. It is further stated in the letter that it is not understood, why these staff has not ^{been} spared for written examination so far. The learned counsel for the applicant has also drawn our attention towards the representation given by the applicants on 12.08.1999 (Annexure A-7), wherein they have stated that they have not been called to appear in the written test and ~~were~~ therefore deprived from their legitimate rights of promotion in the higher grade. They have also submitted a representation on 15.02.1999 and 30.04.1999 (Annexure A-3 and Annexure A-4 respectively). The applicants also stated that as per the instructions issued by the Railway Board later, a modified procedure of selection has been prescribed. According to the procedure the applicants were required to be promoted in

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accordance
with their seniority after scrutinising their service records & without holding any written/viva voce test. But this method of selection was not considered by the respondents. He has therefore submitted that the applicants be considered under the modified selection procedure i.e. after scrutinising their service records and without holding any written/viva voce test, and they should be appointed to the post of Section Engineer giving due seniority above respondent No. 6 Shri Vijay Khampariya who is their immediate junior.

5. On the other hand the learned counsel for the respondents has stated that this modified selection is not applicable in their case, since the appointment to the post of Section Engineer is made purely on the basis of selection as prescribed in the recruitment rules. He has therefore submitted that the applicants should be asked to participate in the next selection of Section Engineer and in case they qualify the written test and viva voce test in the future selection they will be considered for promotion. He has also submitted that the selection process which is required to be followed for promotion to the next higher post cannot be dispensed with.


6. We have very carefully considered the rival contentions and the pleadings made in this case. The learned counsel for the respondents has also produced the original records of the selection. We find from the record that the applicants have earlier qualified in the written test held on 5th August, 1996, 30th November, 1997 and 27th January, 1998. But they have failed in the viva-voce. Thus they could not qualify in said selection. We also find in this record that the applicants were asked to participate in the selection which was to be held on 21st April, 2001. However the applicants




vide their letter dated 17th April, 2001 have stated that they have already qualified the written test on several and occasion/as they have filed a Writ Petition in the Jabalpur Bench of the Tribunal, they are not willing to appear in the written test examination at this stage.

7. In the facts and circumstances of the case, we are of the considered view that the applicants cannot be exempted from the selection for being considered for appointment to the post of Section Engineer. The fact^{is} that the applicants were not informed by the respondents to appear in the test held in January, 1999. Thus they should not be made to suffer for no fault of theirs. We therefore direct the respondents to permit the applicants to appear in the next selection. If it is found that they have qualified in the selection for appointment to the post of Section Engineer, they should be appointed as such and be given notional seniority above Shri Vijay Khampariya, respondent No. 6 who is their next junior.

8. With the above directions the Original Application stands disposed of accordingly. No costs.


(G. Shanthappa)
Judicial Member

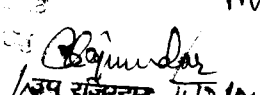

(M.P. Singh)
Vice Chairman

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पृष्ठंकन सं. ओ/ब्या.....
जिला न्यायालय, जालंधर, दि.....

- (1) सविनय से प्रार्थना की जाती है कि आपका आदेश पालन किया जाय
- (2) आवेदन क्र. 1/2001 के अन्तर्गत प्रत्येक आवेदक को न्यायालय के कार्यालय R. Shive Kumar
- (3) प्रत्येकी श्री/श्रीमती/श्रीमान/श्रीमती के नामों के माध्यम से M.N. Banger
- (4) कार्यवाही को तत्काल से आदेश दिया जाये

सूचना एवं आवश्यक कार्यवाही के लिए

/अप राजिन्द्र 11/2/04