

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR.

Original Application No. 394 of 1998

this the 18th day of February 2003.

HON'BLE MR. R.K. UPADHYAYA, MEMBER(A)
HON'BLE MRS. MEERA CHHIBBER, MEMBER(J)

1. Motilal, S/o Raghbir Prasad, aged about 41 years, Helper Khalasi, T.NO. 1153, Posted at N.K.J. Railway Katni District Jabalpur.
2. Ganesh Chandra, S/o Ashutosh Sarker, aged about 43 years, Helper Khalasi, Posted at N.K.J. Railway Katni (Jabalpur)
3. Vijay Kumar, S/o Rambishal, aged about 32 years, Helper Khalasi, T.No. 1045, NKJ Railway Katni District Jabalpur.
4. Aehteshamuddin, S/o Abdulkhalique, aged about 32 years, T.No. 1176, Helper Khalasi, NKJ Railway Katni District Jabalpur.
5. Heera Lal, S/o Chetram, aged about 30 years, Helper Khalasi, T.NO. 1114 NKJ Railway Katni District Jabalpur.
6. Ram Lal, S/o Sardar, aged about 30 years, Helper Khalasi T.No. 1067, NKJ Railway Katni District Jabalpur.

Applicants.

By Advocate : Sri D.N. Shukla.

Versus.

1. Central Railway through its General Manager, Chhatrapati Shivaji Terminal, Mumbai.
2. Divisional Railway Manager, Central Railway, Jabalpur.

Respondents.

By Advocate : Sri N.S. Ruprah.

ORDER (ORAL)

BY MRS. MEERA CHHIBBER, MEMBER(J)

This O.A. has been filed by six applicants, who have claimed the following relief(s):



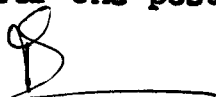
"(1) This Hon'ble Tribunal may kindly be pleased to direct the respondents to consider the applications of the applicants for promotion from the post of Halper/Khalasi to the post of Skilled Artician from the date of 25.3.95 or 6.9.95 when they were eligible for promotion according to the rules.

(ii) Any other relief deemed fit under the circumstances of the case may kindly be granted together with cost of this application."

2. It is submitted by the applicants that they were posted as Halper/Khalasi and were fully eligible for the next higher post. A notification dated 22.3.95 was issued for the post of Skilled Artician and since all the applicants were eligible, they applied for the same. However, the same was cancelled on 6.9.95 (page 9). On 7.10.96, the same post was again advertised and the applicants again applied for the same, but neither they were given any acknowledgment, nor their applications were forwarded for consideration. Since ^{these cases were} ~~it was~~ not considered arbitrarily, they gave a representation on 28.8.97, but the same was rejected by order dated 19.12.97 (page 7). Therefore, they have no other alternative, but to file the present O.A.

3. The respondents have opposed the O.A. on the ground that the applicants did not apply against the ~~second~~ notification in time. More-over 50% of the training period of the selected candidates ^{was} ~~was~~ already ^{over} ~~finished~~, when the applicants applied, therefore, no relief could be given to the applicants. As far as the first notification is concerned, the respondents have submitted that since the notification itself was cancelled, their applications stood cancelled and persons were required to apply afresh after second notification.

4. The applicants have annexed Annexure A-11 with their Rejoinder to show the letter dated 23/30.10.96 wherein the names of three applicants namely Ganesh Chandra, Moti Lal and Aetteshamuddin are shown to have been forwarded. The applicants have thus, submitted that this Annexure clearly shows that they had actually applied for the post, but were wrongly not



considered by the department. Thus, they are entitled for the relief as claimed by them.

5. We have heard both the counsel and perused the pleadings as well.

6. The counsel for the respondents has drawn our attention to para 4.3 of the O.A. wherein the applicants have themselves averred that neither their applications were acknowledged by the respondents, nor their applications were forwarded for consideration. When the applicants have made a specific averments in the O.A. itself stating therein clearly that their applications have not even been forwarded, naturally Annexure A-11 filed by them with the Rejoinder itself becomes doubtful. More-over, it is also seen from Annexure A-11 that against the names of all other candidates, it is clearly mentioned whether they were Khalasi or Helper Khalasi, but no such word was mentioned against the three persons, as mentioned above. Since it is a photostat copy, we had asked the counsel for the applicants to show us the original of this document, but he has not been able to produce the same. Even otherwise, the counsel for the respondents has produced the original record for our perusal, which shows against 26 posts of Fitter against 25% quota, only 23 candidates had applied, who were examined and their results are shown in the record and none of the applicants' name figured in this. The applicants have not alleged any malafidies against the respondents, therefore, there is no reason as to why their cases should not be forwarded, incase they had applied for the same. Since the applicants have themselves stated in para 4.3 of the O.A. that their names were not forwarded pursuant to the notification dated 7.10.96, right course for them would have been to approach the court immediately thereafter seeking a direction to consider them as well, which was



not done by the applicants. We are informed by the respondents' counsel at the Bar that thereafter the applicant nos. 1 & 6 had applied against the post of ^{Welder} ~~Helper~~ Gr.'C' in the year 1999, but both of them have failed in the trade test held on 15.4.99 and 13.4.99 respectively. As far as the applicant nos. 2 & 4 are concerned, they have since been promoted as Fitter Gr.III and Junior Clerk on 23.1.2002 and 13.7.99 respectively. The applicant nos. 3 & 5 still continued to be Helper Khalasi. The discussions made by us ^{above} clearly show that in the year 1995, the applicants could not be considered as the notification itself had been cancelled and pursuant to the notification of 1996, the applicants have not applied for the post. Thus, it is clear that the applicants are not entitled for any relief as claimed by them. The O.A. is ~~unconscionable~~ misconceived and required no interference. It is accordingly dismissed with no order as to costs.



(MERA CHIBBER)
MEMBER (J)



(R.K. UPADHYAYA)
MEMBER (A)

GIRISH/-

पृष्ठंकन सं ओ/ज्या.....जबलपुर, दि.....

- (1) ~~जबलपुर, दि.....~~
- (2) ~~जबलपुर, दि.....~~
- (3) ~~जबलपुर, दि.....~~
- (4) ~~जबलपुर, दि.....~~

D. S. Shukla, ACCO
D. S. Ruppach, ACCO

J. K. Dasgupta
24/2/03

Issued
On 25.2.03
BS