

CENTRAL ADMINISTRATIVE TRIBUNAL  
CIRCUIT BENCH, INDORE

O.A.NO.436/99

This the 21<sup>st</sup> day of February, 03

**Hon'ble Shri Justice N.N. Singh, Vice Chairman (J)**  
**Hon'ble Shri Govindan S. Tampi, Member (A)**

Mahavir Prasad Jain s/o Premchandji Jain  
41 years, TMC Staff, Western Railway  
DRM Office, Ratlam

(By Advocate: Shri K.C. Raikwar)

..Applicant

Versus

1. Union of India through  
General Manager (Estd.), Western. Rly.  
Churhgate, Mumbai
2. Divisional Rail Manager  
Western Railway, DRM Office, Ratlam

(By Advocate: Shri Y.I. Mehta, Senior Advocate with Shri H.Y. Mehta) ..Respondents

ORDER

Shri Govindan S. Tampi:

This OA is filed challenging order No. E/EG/1025/5/19(Foreman),  
Part-III dated 21/29.7.1999 for selection of group 'C' employees for  
promotion to the grade of Foreman/Section Engineer in the grade of  
Rs.6500-10500/. Originally three applicants had filed the OA but two of them  
have withdrawn themselves, leaving only Shri Mahavir Prasad Jain, applicant  
No.1

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2. Shri K.C. Raikwar, learned counsel appeared for the applicant while Shri Y.I. Mehta, learned Senior Advocate assisted by Shri H.Y. Mehta, represented the respondents.

3. Written test was conducted by respondent No.1 (General Manager, Western Railway) on 26.4.1997 for filling up of 31 vacant posts of Foremen (TT)/Section Engineer (TM) in the grade of Rs.2000-3200/- but only six persons have been declared eligible for the post of Foreman. On two employees filing OA 319/97 before the Tribunal at Jaipur, wherein interim stay was granted against the written test, which was subsequently vacated with directions to keep two posts vacant till the disposal of the said OA. The applicant in this OA is one of the senior-most employees in the cadre but had incurred the loath of the respondents for having challenged the earlier selection. The said selection has subsequently been cancelled by DRM Jaipur. According to the applicant, vacancies have been wrongly arrived at and selection processes have been set in motion to favour certain individuals and to prejudice the cause of the senior employee, like himself. The request of the applicant is that the selection process should not be gone through till the disposal of the OA-319/97 filed before the Jaipur Bench of this Tribunal.

4. On behalf of the respondents, it is pointed out that fresh selection for filling up the vacancies of Foreman (TT)/ SE (TM) had been initiated strictly in accordance with rules and the interim directions issued by the Tribunal. The applicant had failed in the written test held in 1997 but the same had no connection with the selection conducted by the Jaipur Division, both being

separate units for purpose of seniority. The applicant was also making contradictory averment with regard to the conduct of the examination. Notification for the year 1999 was correctly issued on 21/29.7.1999 with directions for holding the examination on 28.8.1999, i.e., after 21 days with further directions for the supplementary examination to be held on 4.9.1999. Out of 41 posts of Foremen (TT), 11 have been filled leaving 30 vacant posts. Therefore, 24 posts, representing 80%, were being filled by selection from the serving employees. In terms of rules, candidate equal to three times of vacancies, SC/ST are required to be called, but if the number of candidates are not sufficient, other available persons could also be called. In fact, selection had been conducted after keeping two posts vacant in terms of the orders of the Tribunal. Out of 24 vacancies, only 7 posts have been filled from the staff, who had passed the selection and 17 vacancies are continuing unfilled. Further selection has been held on 25.12.2000 out of which also, 6 vacancies are being kept in favour of the applicant till the disposal of the OA.

5. In the rejoinder, the applicant has indicated that 21 days' notice as contained in para 6.10 has not been given, as the examination was not notified on 30.8.1999 and the test was conducted on 4.9.1999, which did not give adequate time for the preparation.

6. We have carefully considered the matter and we find that the respondents have, in terms of Notification dated 21/29.7.1997, declared holding of the written test for purpose of promotion on 28.8.1999 with supplementary examination on 4.9.99. The applicant states that the requisite

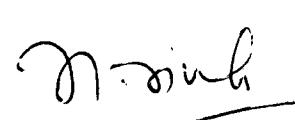
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notice had not been given as the supplementary examination has been fixed just five days after the regular test. This grievance has no basis at all, as advance notice of more than 21 days had been given both in respect of the regular and supplementary tests. It is seen from the counter reply filed by the respondents that the applicant concerned had failed in the written test held in 1997 but in the further test held on 21.10.2000 also 6 vacancies (2 as directed by Jaipur Bench and 4 by this Bench on 20.8.1999) have been kept vacant for consideration of the case of those like the applicants. It is evident, therefore, that the applicant's interest is taken care of and nothing further remains to be done.

7. The OA, in the above circumstances, is bereft any merit and is accordingly dismissed. No costs.

(Govindan S. Tampi  
Member (A))

/sunil/

  
(N.N. Singh)  
Vice Chairman (J)

पूर्णांकन सं. ओ/वा..... जबलपुर, दि.....  
चुटिनिलिंग अकादमी, जबलपुर, मालवा, भारत  
(1) सरिया. ३ वर्ष प्राप्त कर्तव्यकाल के दौरान अवैध नहीं।  
(2) अन्वेषण की/विवरणी/..... *Shri K C Patkar* Doh 74D  
(3) अवैधी की/विवरणी/..... *Shri Y S. Mandre* Doh 74D  
(4) कार्रवाई, कोर्ट अवैध नहीं।  
सुनिया एवं आवश्यक कार्रवाई की दृष्टि  
उपर्युक्त अवैध नहीं।

15/8/2003  
Or 28.2.03  
28/2/03