

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 485 of 1998

Jabalpur, this the 13<sup>th</sup> day of August, 2003.

Hon'ble Mr. J.K. Kaushik, Judicial Member  
Hon'ble Mr. Anand Kumar Bhatt, Administrative Member

Anil Kumar Mishra son of late  
Shri Khubilal Mishra aged about 42  
years, occupation SOM Grade, I,  
(Sub-overseer) Mistri Grade I),  
Central Railway, resident of IDW(M)  
Office, Central Railway, Satna (MP)

APPLICANT

(By Advocate - Shri Sanjay Sanyal)

VERSUS

1. Divisional Railway Manager,  
Jabalpur.
2. C.P.O. (Construction).  
Mumbai, V.T.  
Mumbai (Maharashtra)
3. Senior Divisional Engineer  
(Maintenance)  
Office of Divisional Railway Manager  
Station Road,  
Jabalpur (MP)

RESPONDENTS

(By Advocate - Shri S.P. Sinha)

O R D E R (Oral)

By J.K. Kaushik, Judicial Member

Shri Anil Kumar Mishra has filed this Original Application for seeking a direction to the respondents on the ground to conduct examination for the post of Inspector of Work Grade III immediately and also to place him on the same position as has been done in respect of similarly situated persons in other division of Central Railway with effect from 29.01.1996.

2. We have heard the learned counsel for the parties and have very carefully perused the records of this case.

3. The facts of this case are at a very narrow compass. The case of the applicant is that the respondents conducted an examination to the post of Inspector of Works Grade-III in the year 1986 and it was ordered that the selection would be conducted for filling up 7 vacant posts in Jabalpur division.

number of reminders sent to the authorities. It has also been submitted that in other divisions the selection was completed and persons have already been promoted. Thus the case of the applicant has not been considered for promotion and consideration of promotion is a fundamental right. There has been infraction of Article 14 and 16 of the Constitution of India.

4. On the other hand the learned counsel for the respondents have submitted that at the time when the selection was ordered for promotion to the post of Inspector of Work Grade-III in the year 1996 there were no vacancies for the said post in Jabalpur and due to mistake the selection was ordered to be organised. Not only this, at that time the post of Inspector of Work Grade was a headquarter control post. But subsequently there was de-centralisation and in de-centralisation the posts of Inspector of Works Grade-III comes under division control and it was the Jabalpur division which was to fill up these posts. The matter was informed to the higher authorities and it was categorically submitted that there was no posts vacant in Jabalpur at the relevant time and there seems to be some communication gap in the matter. It is also brought to our notice that a letter dated 27.03.1997 was issued by the DRM's office, Jabalpur, whereby the examination which was ordered to be conducted for the posts of IOW Grade-III and Grade-II vide letter dated 25.09.1996 had been cancelled and the Headquarter directed that the vacancies of IOW Grade-III will be filled in by transferring the optees from other division and no selection was to be conducted. It is a further annotation that there was no vacancy of IOW in Jabalpur division. In this view of the matter the learned counsel for the respondents submitted that there is no infirmity and arbitrariness in the action of the respondents.

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5. We have considered the rival contentions made on behalf of the parties. It is an admitted position of the case that none of the juniors of the applicant has been promoted to the post of IOW Grade-III so far. It is right that consideration of promotion is a fundamental right but not the chances of the promotion, and one can claim promotion right to consider only when one of his junior has been so considered. In the present case there is no such claim. We also do not find any illegality in the action of the respondents in filling up the vacant posts even from other divisions after de-centralisation and such adjustments are not unfounded. If it has anyway affected the chances of promotion of the applicant that should not be cause of affection for any action for the applicant.

6. In this view of the matter there is no substance in this Original Application and the same stands dismissed with no order as to costs.

*Anand Kumar Bhatt*  
(Anand Kumar Bhatt)  
Administrative Member

*J.K. Kaushik*  
(J.K. Kaushik)  
Judicial Member

"SA"

पूठाना नं ओ/न्या.....जबलपुर, दि.....  
परिलिपि अर्जित:-

- (1) सचिव, उच्च न्यायालय एवं एसोसिएशन, जबलपुर
- (2) ~~अध्यक्ष श्री/श्रीमती/शु~~.....के काउंसल
- (3) ~~प्रत्यक्ष श्री/श्रीमती/शु~~.....के काउंसल
- (4) न्यायालय, के.प.आ., जबलपुर न्यायापीठ  
सूचना एवं आवश्यक कार्यवाही हेतु

*S. Sanyal, Adv*  
*S. P. Sinha, Adv*

*Tripathi*  
उप निवेदन 28/8/03

*Issued*  
*on 27.8.03*  
*BS*