

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH
JABALPUR

Original Application No.80 of 1998

Jabalpur, this the 21st day of August, 2003

Hon'ble Shri D.C.Verma-Vice Chairman(Judicial)
Hon'ble Shri Anand Kumar Bhatt-Administrative Member

Madan Walter, S/o late Walter Govind,
aged about 55 years, Charge man
Grade-B(Adhoc), Central Railway, New
Katni Junction, (Diesel Shed Katni),
Distt. Jabalpur (M.P.)

: APPLICANT

(By Advocate - Shri Vivek Shukla)

Versus

1. Union of India through the Secretary,
Ministry of Railway, New Delhi.
2. The General Manager, Central Railway,
Mumbai, C.S.T..
3. Divisional Railway Manager(P), Central
Railway, Jabalpur, M.P.
4. Senior Divisional Mechanical Engineer,
New Katni Junction(Central Railway),
Diesel Shed Katni, Distt. Jabalpur M.P. - RESPONDENTS

(By Advocate - Shri S.P. Sinha)

O R D E R (Oral)

By D.C.Verma, Vice Chairman(Judicial)-

By this Original Application, the applicant has claimed regularisation on the post of Chargeman Grade-B in Central Railway and consequential seniority and promotion.

2. The brief facts of the case are that while the applicant was working as Diesel Mechanic Grade-I, he was promoted on adhoc basis as Chargeman Grade-B in September, 1983. He was reverted in 1999. The order reverting the applicant in 1999 was challenged before this Tribunal in O.A.No.119 of 1999. The said O.A. was allowed and the reversion order was quashed.

3. The learned counsel of the respondents states

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that a writ petition was filed by the respondents against the order of the Tribunal in OA 119/1999 and the Tribunal's order has been stayed. However, in the meanwhile the applicant superannuated on 31.1.2002.

4. It appears that when the applicant was working on adhoc basis as Chargeman Grade-B, the applicant and similarly placed several persons filed different OAs before this Tribunal for regularisation. The Tribunal decided all the OAs by an order dated 28.5.1990, the leading case being O.A.593/1998, Mohd.Salim Khan & others Vs. Union of India & others. The applicant's O.A was numbered as 744/1988 which was at serial no.5. The Tribunal while considering the question of regularisation observed that "since all these applicants have not succeeded in the selection tests, we have, therefore, to conclude that the applicants in cases listed at serial Nos.1 to 14 are not entitled to be regularised on the posts of Chargeman Grade-B and as far as applicant M.P.Pandey in O.A.634 of 1989 is concerned he is not entitled to be regularised on the post of Junior Clerk and the impugned orders which have been challenged cannot be annuled. Moreover, we observe that as far as the applicants in O.A. listed at serial Nos.1 to 14 are concerned, they had been shifted to the post of Master Craftsmen from the post of Chargemen Grade-B which as stated by the respondents are equivalent posts". The Tribunal, However, further observed that "where the applicants have already taken tests and

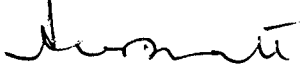
failed, a further opportunity can be given to the applicants concerned to clear the prescribed test/interview in terms of the case of Jetha Nand (supra)".

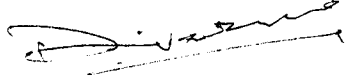
5. The applicant was given a chance to appear in the selection but he failed in the selection held on 29.11.1996. The applicant was given another chance to appear on 14.9.1998 but the applicant did not appear. Thus, two chances were given to the applicant. Thus, the case law laid down in Jetha Nand's case was thus followed by the respondents to provide opportunity to the applicant to clear the test to hold the post of Chargeman Grade-B on regular basis. As the applicant has failed to do so, the claim for regularisation is not maintainable.

6. The learned counsel of the applicant has placed reliance on a decision of Allahabad Bench of the Tribunal in the case of J.B.Lal Srivastava Vs. Union of India, decided on 28.3.1987, copy placed on record as Annexure-A-7. The learned counsel submitted that as per the Allahabad Bench decision, those who had completed three years officiation were directed to be considered for regularisation on the post of Chargeman Grade-B. Consequently, the applicant should also be directed to be considered for regularisation. We are, however, of the view that the submission has no merit. The applicant was not party in the case decided by the Allahabad Bench. The applicant was a party in the common judgment decided by this Tribunal on 28.5.1990. In the said case it was held that the

applicant is not entitled for regularisation on the post of Chargeman Grade-B. Further, the Tribunal while deciding OA 744/1988 had directed that the applicant be given chance to appear ⁱⁿ the prescribed test/interview in terms of the case law in Jetha Nand. The applicant was afforded opportunities but he could not succeed. Consequently, the applicant's right for regularisation is not made out.

7. In view of the above, the O.A. has no merit and is dismissed. Costs easy.


(Anand Kumar Bhatt)
Administrative Member


(D.C. Verma)
Vice Chairman (Judicial)


rkv.

पूठांकन सं ओ/न्या.....जबलपुर, दि.....

परिचय अद्योचित:-

- (1) स.प. 101 न्यायालय बार एसोसिएशन, जबलपुर
- (2) ~~स.प. 101 न्यायालय बार एसोसिएशन, जबलपुर~~ के काउंसल
- (3) स.प. 101 न्यायालय बार एसोसिएशन, जबलपुर के काउंसल
- (4) वंशदास, डी.प.अ. जबलपुर न्यायापीठ

सचन एवं आवश्यक कार्यवाही हेतु


उप-निर्देश 16/9/03

V. Shakla. Adv
S.P. Sinha. Adv

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