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NOTES OF THE REGISTRY

ORDERS OF THE TRIBUNAL

17-5-07

Mr. Shailendra Srivastava counsel for
Mr. Anupam Agarwal counsel for the
applicants
respectively

Heard. The OA stands
allowed by a separate order.

Praveen *Jan*
(P. P. Shukla) (Auladip Singh)
Administrative Member Vice Chairman

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR

Jaipur, the 17th day of May, 2007

ORIGINAL APPLICATION NO. 118/2005

CORAM:

HON'BLE MR. KULDIP SINGH, VICE CHAIRMAN
HON'BLE MR. J.P. SHUKLA, ADMINISTRATIVE MEMBER

Girish Mohan Mathur son of Late Shri I.S. Mathur, aged about 48 years, resident of 2128, 'a' Opposite Officers Club, Frazer Road, Dada Badi, Ajmer. Presently posted as Sr. Section Engineer (Works) construction under subordination of Dy. C.E. Construction I, Ajmer.

By Advocate: Mr. Shailendra Srivastava

.....Applicant

Versus

1. Union of India through the General Manager, North Western Railway, Jaipur.
2. Chief Administrative Officer (Construction) North Western Railway, Jaipur.

By Advocate: Mr. Anupam Agarwal

.....Respondents

ORDER (ORAL)

The applicant has filed this OA against the non-inclusion of his name in the revised provisional eligibility list dated 01.03.2005 (Annexure A/1) published by the office of Respondent No. 2 at the time of postponement of written exam with regard to the selection for the Group 'B' post of Assistant Engineer (Regular) in Civil Engineering Department against 70% quota for promotion. Apart

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from that the applicant is also assailing the impugned order dated 07.03.2005 (Annexure A/2), communicated to the applicant on 24.03.2005, thereby rejecting his representation for inclusion of his name in the said eligibility list on the ground that his lien is maintained at Headquarter of Western Railway.

2. Facts of the case, in brief, are that the applicant who was working as Sr. Section Engineer (Construction) was on roll of Western Railway before creation of new zones. After creation of the new zones, the applicant had given his option to be absorbed in North Western Railway but no decision was taken on the said option. In the meanwhile, the respondents conducted an examination for promotion to Group 'B' post of AEN (Regular) against 70% quota. The applicant had also expressed his willingness to appear in the said examination. When the notification for the said examination was issued, an eligibility list was issued where the name of the applicant had been shown. However, after his willingness was obtained, another eligibility list was issued in which also, his name was shown but subsequently his name was deleted from the eligibility list issued on 01.03.2005. The applicant approached the Department by making a representation. He was informed that since his lien was maintained at Western Railway and



he has yet not been absorbed in North Western Railway, his name has been removed from the eligibility list.

3. Vide order dated 30.03.2005, this Tribunal gave interim direction to the respondents to entitle the applicant to appear in the examination likely to be held on 03.04.2005 on provisional basis and his result should be kept in sealed cover. Accordingly, the applicant appeared in the written examination and his result has been kept in sealed cover and thus he was not called for viva-voce test, which has already been conducted by the respondents. Feeling aggrieved by the same, the applicant has prayed for the following reliefs:-

- a. That by an appropriate order or direction, the impugned orders dated 07.03.2005 (Annexure A/2) may be quashed and set aside.
- b. That respondents be directed to include the name of the petitioner in eligibility list (Annexure A/1) dated 01.03.2005 prepared on the basis of the general seniority of the concerned employees for selection to the Group 'B' post of AEN in question and allow the petitioner to participate in the said selection test.
- c. That respondents may further be directed to issue an order for absorbing the petitioner in new zone i.e. NWR where petitioner has been working at present.
- d. That in alternative to the relief sought for in preceding Para c, respondent may be directed to dispose the representation of the petitioner for getting himself absorbed in the new zone, which was

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forwarded by the Deputy C.E.(C) vide its letter dated 20.08.2002 to the C.E. (C), Jaipur for consideration.

- e. Any other order in favour of the petitioner, which this Hon'ble Tribunal may deem fit and proper as per the facts and circumstances of the case.
- f. Award the cost of the petition in favour of the humble petitioner.

4. Learned counsel for the applicant submitted that applicant originally belonged to Rajkot Division of Western Railway but ever since 1987, he has been working in Construction organization initially under the administrative control of Chief Engineer (Construction) Ahmedabad until the year 1992-93, the unit was attached with the office of C.E. (Construction), Jaipur. Learned counsel for the applicant further submitted that the applicant had submitted his request for transfer to the newly created North Western Railway Zone and the same was duly forwarded by the then controlling officer i.e. Deputy Chief Engineer (C), Ajmer to the Chief Engineer (Construction) I, Jaipur. In turn, the office of CAO (Construction), Jaipur, forwarded the same alongwith applications of other candidates to the CPO, North Western Railway, Jaipur vide his letter dated 28.08.2002. It was specifically mentioned while forwarding the options/requests to CPO, North Western Railway



that these applicants are working in the Construction organization of North Western Railway.

5. Learned counsel for the applicant also drew attention of the Tribunal that the name of the applicant was there in the provisional eligibility list at sl. No. 27 as per general seniority for selection to the Group 'B' post of AEN. Learned counsel for the applicant also drew attention to Page No. 37 of Annexure A/9 where the name of the applicant is there at sl. No. 11 of the combined seniority list of Engineering department of North Western Railway, Jaipur which was notified that in connection with selection for Group 'B' post of AEN of eligible technical supervisors.

6. Learned counsel for the respondents argued that applicant failed to apply for his absorption in a proper manner through proper channel. He submitted his option through Dy. Chief Engineer (C), AII to CE (C), Jaipur while it should have been forwarded through his parent office to General Manager (P), North Western Railway as North Western Railway was the option acceptance authority. Learned counsel for the respondents argued that lien of the applicant was with Western Railway and, therefore, although his name was included in the provisional seniority list for selection of AEN of North Western

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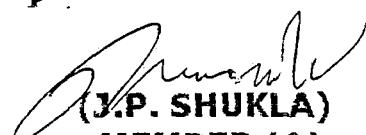
Railways but while issuing the corrigendum, the name of the applicant was removed from the list. Learned counsel for the respondents further argued that the name of the applicant finds place at sl No. 88 in the combined seniority list issued by the Western Railway and thus he has no right to be considered at two places in selection and his name was rightly deleted vide order dated 29.03.2005 and was not included in the list dated 01.03.2005.

7. After hearing the learned counsel for the parties and perusal of the material placed on record, we observe that the applicant had submitted his option/request in time for his transfer/absorption in the newly created zone of North Western Railway through proper administrative channel i.e. his controlling officer on date 28.08.2004 (Annexure A/3), which was forwarded by the controlling officer i.e. Deputy Chief Engineer (Construction) to his next superior authority i.e. Chief Engineer (Construction), Jaipur who in turn forwarded the same alongwith other applications to the appropriate authority i.e. CPO, North Western Railway, Jaipur on date 28.08.2004. Therefore, it was necessary on the part of the respondents to have considered the request of absorption of the applicant in newly created zone of North Western Railway where applicant had been working since long and allow him all consequential benefits and opportunities for



advancement in his career including proper seniority and selections. Accordingly the impugned order dated 07.03.2005 is quashed and set aside. The respondents are directed to issue an order for absorbing the applicant in new zone of North Western Railway and include his name in the eligibility list dated 01.03.2005 (Annexure A/1). The respondents are also directed to open the sealed cover of the applicant of the result of the written examination conducted for selection to Group 'B' post of AEN and conduct the viva-voce test of the applicant and declare final result based on his overall merit and seniority for the selection to Group 'B' post of AEN. This exercise should be done within a period of three months from the date of receipt of a copy of this order.

8. With these observations, the OA is disposed of accordingly with no order as to costs.



(J.P. SHUKLA)
MEMBER (A)



(KULDIP SINGH)
VICE CHAIRMAN

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