

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH

Jaipur, this the ¹¹ day of February, 2010

ORIGINAL APPLICATION NO. 110/2006

CORAM:

HON'BLE MR. M.L. CHAUHAN, JUDICIAL MEMBER
HON'BLE MR. B.L. KHATRI, ADMINISTRATIVE MEMBER

Kamal Verma son of Shri Dhanna Lal Verma aged about 38 years, resident of House of Samant Prasad, Chopra Farm, Dadwara, Kota Junction and presently working as Chief Goods Clerk under Station Manager, West Central Railway, Kota Railway Station, Kota.

.....APPLICANT

(By Advocate: Mr. C.B. Sharma)

VERSUS

1. Union of India through General Manager, West Central Zone, West Central Railway, Jabalpur (M.P.).
2. Divisional Railway Manager, West Central Railway, Kota Division, Kota.
3. Senior Divisional Operating Manager, West Central Railway, Kota Division, Kota.
4. Senior Divisional Commercial Manager, West Central Railway, Kota Division, Kota.

.....RESPONDENTS

(By Advocate: Mr. T.P. Sharma)

ORDER

PER HON'BLE MR. M.L. CHAUHAN

The applicant has filed this OA thereby praying for the following reliefs:-

- "(i) That entire record relating to the case be called for and after perusing the same respondents may be directed to extend benefits of higher scale Rs.6500-10500 with effect from 1.11.2003 including arrear of pay and allowances after due fixation by quashing letter dated ___/2.2006 (Annexure A/1).

- (ii) That the respondents may be further directed to pass suitable orders for absorption in Commercial Department in the scale of Rs.6500-10500 on suitable post by modifying order dated 13.09.2004 (Annexure A/2) with all consequential benefits.
- (iii) Any other order/directions or relief may be granted in favour of the applicant which may be deemed just and proper under the facts and circumstances of this case.
- (iv) That the costs of this application may be awarded."

2. Briefly stated, facts of the case are that the applicant while working on the post of Station Master in the scale of Rs.5500-9000/-, Respondent no. 2 vide letter dated 27.08.2003 (Annexure A/3) direct the applicant to attend Church Gate, Mumbai on 10.09.2003 at 1030 Hours for Psychological Test. Respondent no. 2 further informed Senior Scientific Officer, Church Gate, Mumbai regarding examination of the applicant vide letter dated 27.08.2003 (Annexure A/4). Since the applicant was sick with effect from 28.07.2003 to 12.09.2003, he pursuant to the aforesaid order made himself available for medical examination after resuming duty for two days. After availing of the Sick leave vide letter dated 25.09.2003 (Annexure A/7), respondent No. 4 vide Note dated 24.09.2003 (Annexure A/6) posted the applicant in ticket checking department till report of the Psychological Test is not received. Pursuant to the order dated 24.09.2003, Station Master, Lakheri directed the applicant to report for duty at Kota. However, subsequently, the applicant was absorbed in Commercial Department vide order dated 13.09.2004 (Annexure A/2) pursuant to the recommendations made by the Screening Committee based on Psychological Test. The grievance of the applicant in this case is that he has not been granted the benefit of promotion under the Restructuring Scheme based on his seniority list in the Parent cadre and for that purpose, he made a representation dated 26.04.2005

(Annexure A/8) followed by another representation dated 13.01.2006 (Annexure A/6) but the request of the applicant was rejected vide order dated __.02.2006 (Annexure A/1) arbitrarily. Thus the applicant has filed this OA thereby praying for the aforesaid reliefs.

3. Notice of this application was given to the respondents. The facts, as stated above, have not been disputed. According to the respondents, the applicant was de-categorised prior to 01.11.2003 on the basis of failure in the Psychological Test, as such he was not entitled for the benefit of promotion in the Restructuring Scheme to the post of Station Master in the scale of Rs.6500-10500/-. According to the respondents, the applicant could not have been posted against the post of Station Master in the pay scale of Rs.6500-10500 till the result of the Psychological Test was not declared and the applicant found fit. Thus according to the respondents, the Competent authority had adjusted the applicant in Commercial Department as Chief Goods Clerk in the pay scale of Rs.5500-9000/-. According to the respondents, the result of the Psychological Test was received on 13.10.2003 prior to 01.11.2003. As such, the applicant is not entitled to the benefit under the Restructuring Scheme on the post of Station Master, which post belonged to safety category.

4. We have heard the learned counsel for the parties and have gone through the material placed on record. The sole question which requires our consideration is whether the applicant is entitled to the benefit under the Restructuring Scheme w.e.f. 01.11.2003 when he was unfit for the said post on the basis of the Psychological Test, which

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test was conducted prior to 01.11.2003 and the applicant has not worked on the post of Station Master w.e.f. 25.09.2003 onwards solely on the basis that the formal order regarding absorption of the applicant in the Commercial Department was passed after the cut off date i.e. on 13.09.2004.

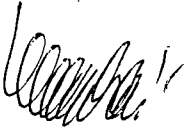
5. We have given due consideration to the submission made by the learned counsel for the parties. Before we proceed to examine this matter, we wish to notice certain relevant facts. There cannot be any dispute that the post of Station Master pertains to safety category as per policy decision taken by the Railway Board. The persons who are posted against the safety category posts are required to undergo the periodical medical check up and only those persons who are found fit in the medical test are further continued to hold the relevant post(s) belonging to safety category and those persons who are unfit in the medical test have to be adjusted in other alternative posts. The requirement of medical test in safety category is based on the fact that safety of passengers is involved and it is only those persons who are medically fit can continue to hold the post(s) belonging to safety category. There cannot be any dispute to this aspect. Admittedly, the applicant who belonging to safety category and was holding the post of Station Master was required to appear before the appropriate authority for the purpose of Psychological Test. Indeed the applicant appeared in the Psychological Test. It is also an admitted fact that he was found unfit in the Psychological Test, the report of which was received on 13.10.2003. It is also an admitted fact that after sending the applicant for Psychological Test when he reported for duty, he was not posted

against the post of Station Master. However, till the report of the Psychological Test was not received, he was posted against the alternative post i.e. Chief Goods Clerk vide order dated 24.09.2003. Thus viewing the matter from the aforesaid angle and the fact that fitness in medical test was one of the essential conditions to continue further on the posts belonging to safe category, according to us the relevant date for the purpose of determination whether a person can continue to hold safety category post or not is the date when the result of such medical examination is received by the authority. Since the applicant has incurred disability prior to 01.11.2003 and was also not manning the post belonging to safety category on the cut off date i.e. 01.11.2003, thus the formal order passed by the respondents of his absorption in Commercial category vide order dated 13.09.2004 in any case will relate back to 13.10.2003 when the result of the Psychological Test was received and the applicant was found unfit. Thus according to us, the applicant is not entitled to the relief solely on the ground that the action on the medical report was taken by the respondents subsequently.

6. For the foregoing reasons, we see no infirmity in the action of the respondents whereby he was informed that he was medically de-categorised prior to 01.11.2003 on the basis of Psychological Test report, as such, he is not entitled to the benefit of Restructuring Scheme in the higher grade of Rs.6500-10500/- against the post, which obviously belongs to safety category.

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


(B.L. KHATRI)
MEMBER (A)


(M.L. CHAUHAN)
MEMBER (J)

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