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**CENTRAL ADMINISTRATIVE TRIBUNAL**  
**JAIPUR BENCH, JAIPUR**

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**ORDERS OF THE BENCH**

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**07.12.2010**

**OA No. 145/2006**

Mr. S.K. Jain, Counsel for applicant.  
Mr. Virendra Dave, Counsel for respondents.

Heard learned counsel for the parties.

For the reasons dictated separately, the OA is disposed of.

*Anil Kumar*

(ANIL KUMAR)  
MEMBER (A)

*M.L. Chauhan*

(M.L. CHAUHAN)  
MEMBER (J)

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,  
JAIPUR BENCH

JAIPUR, this the 7<sup>th</sup> day of December, 2010

Original Application No. 145/2006

CORAM:

HON'BLE MR. M.L.CHAUHAN, MEMBER (JUDL.)  
HON'BLE MR. ANIL KUMAR, MEMBER (ADMV.)

1. Ravindra Kumar  
s/o Shri Data Ram,  
now a days Senior Khallasi,  
Power Control, Phulera Jn.,  
NWR, Jaipur Division,  
Jaipur.
2. Nawal Kishore,  
s/o Shri Bhanwar Lal,  
now-a-days Senior Khallasi,  
Power Control, Phulera Jn.,  
NWR, Jaipur Division,  
Jaipur r/o 348A AEN Colony,  
Phulera.

.. Applicants

(BY Advocate: Shri S.K.Jain)

Versus

1. Union of India  
through the General Manager,  
North Western Railway,  
Jaipur.
2. Senior Divisional Electrical Engineer (E),  
North Western Railway,  
Jaipur Division,  
Jaipur

... Respondents

(By Advocate: Shri Virendra Dave)

ORDER (ORAL)

The applicants ~~have~~ filed this OA thereby praying for the following reliefs:-

- i) That by an appropriate order or direction, the impugned result of the trade test dated 27.3.2006 Annex.A/1 and dated 13.2.2006 Annexure-A/5 be quashed and set aside and the trade tests held by the respondents on 13.2.2006 and 27.3.2006 be declared illegal and the same be quashed and set aside.
- ii) That the respondents be directed not to promote the persons on the basis of the above selection.
- iii) Any other relief which this Hon'ble Tribunal deems fit may also be granted to the humble applicant, looking to the facts and circumstances of the present case.

2. Briefly stated, facts of the case are that the respondents issued a notification dated 3.1.2006 (Ann.A/4) for filling up 38 posts of ELF Grade-III in the scale of Rs. 3050-4590, out of which 28 posts were meant for General Category, 6 for SC and 3 posts for ST category. For that purpose, names of 38 persons were shown in the eligibility list, who have to appear in the trade test. Such procedure was adopted by the respondents in terms of para 2.5(i) of the Railway Board Master Circular dated 9.1.1992 (Ann.R/1) which stipulates that employees equal to number of vacancies should be called for trade test. The respondents declared result of 38 persons vide order dated 13.2.2006 (Ann.A/5). Since some of the posts remained vacant, the respondents also conducted trade test of 27 persons in respect of posts which remained vacant and names of the applicants find mention at Sl. Nos. 8 and 12 of the said order. The result of the trade test held on 13.2.2006 was declared on 10/

27.3.2006 (Ann.A/1) and the applicants have been shown to have failed in the trade test. It is this impugned order which has been challenged by the applicants in this OA. The challenge has been made to the impugned order Ann.A/1 and order dated 13.2.2006 (Ann.A/5) on the ground that persons who have given their refusal for the trade test conducted in the year 2005, result of which was declared on 9.11.2005 (Ann.A/2) have been included in the eligibility list for the subsequent trade test held for the aforesaid posts. On merits, it has been contended that under the Railway rules, trade test has to be conducted by a committee/trade test panel consisting of officers of deputy ranks from the mechanical and civil engineering departments along with SPO in technical department and also that in this case no practical test was conducted only oral examination was done. The applicants have also made grievance regarding cancellation of trade test held in the year 2005. It is on the basis of these facts and averments, the applicants have filed this OA thereby praying for the aforesaid reliefs.

3. Notice of this application was given to the respondents. The respondents have not disputed the facts as stated above. They have categorically stated that the trade test held for the aforesaid posts in the year 2005 was cancelled and, as such, another notification dated 3.1.2006 for the aforesaid posts was issued separately along with eligibility list-A and B. It is stated that the employees equal to number of vacancies were included in List-A strictly in accordance with Para 2.5(i) of the Railway Board Master

Circular dated 9.1.92 (Ann.R/2) whereas names of the applicants were in List-B of the said eligibility list. The respondents have stated that simply because persons have given their refusal for the earlier trade test does not debar them for subsequent trade test held vide separate notification as employee can be debarred for promotion for one year in case he refuses such promotion. It is further stated that an employee can be granted promotion only if he passes the trade test. The respondents have further stated that the trade test was conducted by the trade test committee in terms of para 4.1 of the Master Circular and the trade test was approved by the Senior Divisional Mechanical Engineer. The respondents have also placed reliance upon para 4.2 (iii) of the Master Circular (Ann.R/1) which stipulates that JA grade officer of the department will act as Chairman of the trade test panel and approves the result. Thus, according to the respondents, the procedure adopted by the respondents was in conformity with the provisions contained in the master circular. The respondents have further stated that the trade test dated 9.11.2005 was cancelled due for administrative reasons and not for the purpose of including some persons as alleged by the applicants.

4. We have heard the learned counsel for the parties and gone through the material placed on record.

5. We are of the view that the applicants have not made out any case for our interference. From the facts as stated above, it is quite evident that the respondents conducted a trade test for the post of Electrical Fitter Grade-III in the year 2005, result of which was

declared on 9.11.2005 (Ann.A/2). Both the applicants appeared in the trade test but they could not qualify the trade test. The said trade test was cancelled and subsequently another notification dated 3.1.2006 was issued along with eligibility list. As can be seen from the notification dated 3.1.2006, against 38 posts names of 38 persons were included in list-A who were held eligible to appear in the trade test. Names of applicants were included in List-B. List-B was to be made operative only if persons in List-A give their refusal to appear in the trade test then requisite number of persons from List-B were to be permitted to appear in the trade test.

6. Be that as it may, after declaration of the result of persons mentioned in List-A vide order dated 13.2.2006, the applicants whose name were shown in List-B of the eligibility list dated 3.1.2006 were also permitted to appear in the trade test and by virtue of such opportunity given by the department, the applicants whose names find mention at Sl.No. 8 and 12 of the order dated 27.3.2006 appeared in the trade test but vide impugned order Ann.A/1 they could not qualify the trade test. The learned counsel for the respondents has shown to us, the result of the applicants. Applicant No.1 i.e. Rvindra Kumar s/o Data Ram has obtained 15 marks out of 60 marks in practical test and 10 marks out of 40 in oral test whereas pass marks for practical test was 36 and for oral test it was 15. Thus, the applicant No.1 has not obtained requisite passing marks. Similarly, in the case of applicant No.2 who belongs to SC category, passing marks for practical test was 30 whereas he has only obtained 6 marks and in oral test he has obtained 5 marks whereas

passing marks were 15. Thus, out of total 100 marks applicant No.1 has obtained 25 marks and applicant No.2 has obtained 11 marks. Thus, no mandamus can be issued to the respondents not to promote a person who has qualified the trade test pursuant to the result declared vide impugned order dated 13.2.2006 and 27.3.2006 (Ann.A/5 and A/1). The grievance made by the applicants that ineligible persons have been included in the eligibility list in respect of the examination held in the year 2006 and also that trade test was not held in conformity with the instructions issued by the Railway department deserves out right rejection, inasmuch as, the applicants competed with other eligible persons but they could not qualify the trade test. The question whether certain eligible persons who have given their refusal to appear in the trade test held in the year 2005 which trade test was cancelled and they were allowed to appear in the subsequent trade test held in the year 2006 whereby they have shown their willingness to appear in the trade test, were relevant only if the applicants would have qualified the trade test. In that eventuality, the question whether the applicants who qualified the trade test can be empanelled qua so called ineligible persons would have arisen for consideration. Thus, according to us, the contention so raised by the applicants is without any substance and deserves rejection. Further, the trade test was held in conformity with the Railway Board Master Circular dated 9.1.1992 (Ann.R/1). Thus, for the foregoing reasons, there is no substance in this OA and the same deserves to be dismissed on this count alone.

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7. That apart, pursuant to declaration of result vide impugned order Ann.A/1, the persons who have passed the trade test and given appointment has not been impleaded as respondents in this OA. Even on this count, no relief can be granted to the applicant which will affect the persons who have passed the trade test and have been given appointment against the aforesaid posts.

8. Thus, viewing the matter from any angle, we are of the firm view that the applicants have not made out a case for our interference. Accordingly, the OA is dismissed with no order as to costs.

*Anil Kumar*

(ANIL KUMAR)  
Admv. Member

*M.L.Chauhan*

(M.L.CHAUHAN)  
Judl. Member

R/