

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH

Jaipur, this the 08th August, 2008

ORIGINATION APPLICATION NO. 297/2008

CORAM:

HON'BLE MR. M.L. CHAUHAN, JUDICIAL MEMBER

HON'BLE MR. B.L. KHATRI, ADMINISTRATIVE MEMBER

Alok Vyas son of Shri Uma Shankar aged about 36 years, at present working as Section Engineer, Office of Chief Administrative Officer (C), NWR Jaipur, resident of 25, Diamond Colony, Sarasvati Nagar, Jaipur.

.....APPLICANT

(By Advocate: Mr. P.V. Calla)

VERSUS

1. Union of India through the General Manager, Northern Western Railway, Headquarter Office, Opposite Railway Hospital, Jaipur.
2. The Principal Chief Engineer, CAO (C), NWR, Jaipur.
3. The Divisional Railway Manager, Jaipur Division, Power House Road, Jaipur.

.....RESPONDENTS

(By Advocate: -----)

ORDER (ORAL)

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

"(i) the respondents may be directed to held the applicant eligible for selection to the post of A.En. Group post under LDCE-30% quota. Respondents may further be directed to include the name of the applicant in the final eligible list Ann. A/1 dated 30.6.2008

at appropriate place and in case the applicant is selected he may be ordered to be promoted on the post of A.En. scale Rs.7500-12000.

(ii) this Original application may kindly be allowed with costs.
(iii) any other relief to which applicant is found entitled, in the facts and circumstances of the present case, may also be granted in favour of the applicant."

2. Facts of the case are that the applicant was initially appointed as Permanent Way Supervisor in the scale of Rs.4500-7000/- on 20.10.2000. He was promoted on the post of Jr. Engineer in scale of Rs.5000-8000/- on 23.01.2006 and presently, the applicant is working as Section Engineer in the scale of Rs.6500-10500/-. According to the applicant, he is eligible in terms of Clause 1.1 of the Railway Board Circular dated 08.02.2008 (Annexure A/3). The grievance of the applicant in this case is that even the persons who did not fulfill the eligibility criteria have been included in the eligibility list prepared for the purpose of selection for promotion to the post of Assistant Engineer (LDCE-30%), scale Rs.7500-12000. For that purpose, learned counsel for the applicant has drawn our attention to sl. Nos. 6, 36 and 141 of the provisional eligibility list of candidates for Assistant Engineer (LDCE-30%) wherein persons mentioned at sl no. 6 and 36 were working as PW whereas person at sl. No. 141, Shri Deep Narain Mathur, is a Section Engineer. According to the learned counsel for the applicant, Shri Deepak Narain has joined as Section Engineer in the year 2004, as such he has not completed five years of service as on 01.09.2007.

3. We have given due consideration to the submission made by the learned counsel for the applicant. At this stage, it will be useful to quote the eligibility criteria for promotion to the post of Assistant Engineer, which thus reads as under:-

- "1. The Group 'C' staff of Engineering Department who have put in a minimum 5 years of non-fortuitous regular service in Grade Rs.5000-8000 (RSRP) and above as on 01.09.2007 are eligible for selection against 30% quota of AEN.
 - 1.1 As per Railway Board's letter No. E(GP)/99/2/22 dated 11.08.2006, JE-erstwhile Mistries, who were in Grade Rs.5000-8000 on the cut off date 01.09.2007 and have rendered 05 years non-fortuitous service in the Civil Engineering department/NWR, are also eligible for the selection against 30% quota of vacancies of AEN.
 - 1.2"

4. From the perusal of the eligibility clause, it is evident that only those persons have been made eligible for promotion to the post of Assistant Engineer (LDCE-30%) who has rendered five years of service in the grade of Rs.5000-8000/- and above as on 01.09.2007. Admittedly, the applicant does not fulfill this eligibility criterion. According to the learned counsel for the applicant, the case of the applicant is covered under Clause 1.1, which prescribes that JE-II erstwhile Mistries who were in the grade of Rs.5000-8000/- as on 01.09.2007 and have rendered five years of service in the Civil Engineering Department are also eligible for selection against 30% of quota. The bare perusal of this clause itself shows that it is the JE II- erstwhile Mistries who have been made eligible provided such person were in the grade of Rs.5000-8000/- as on cut off date i.e. 01.09.2007 and not those persons who may be

Mistries but not in the grade of JE-II erstwhile Mistries. According to us, Clause 1.1 is attracted only if a person is JE-II erstwhile Mistry and further that as on 01.09.2007, he should be in the Grade of Rs.5000-8000. This clause will not apply in the case of the applicant because as on 01.09.2007, the applicant was not a Mistry in the grade of Rs.5000-8000/- but he was Section Engineer. As already stated above, the applicant's initial appointment was not as JE II-erstwhile Mistry but he was Permanent Way Supervisor in the grade of Rs.4500-7000/- and he was promoted as Junior Engineer in the pay scale of Rs.5000-8000/- as on 23.01.2006, which admittedly is a different category. As such, according to us, the applicant is not eligible for promotion to the post of Assistant Engineer. However, we wish to make it clear that in case the name of the persons, as mentioned by the applicant herein above, have been wrongly included and are not eligible as per eligibility criteria, respondents may look into the matter. Further we also wish to make it clear that selection should be made strictly in accordance with the ^{eligibility criteria} prescribed in the notification dated 08.02.2008 (Annexure A/3). Any departure from this shall be seriously viewed as & when the matter comes before this Tribunal.

5. With these observations, the OA is disposed of at admission stage itself.


 (B.L. KHATRI)
 MEMBER (A)


 (M.L. CHAUHAN)
 MEMBER (J)

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