

CENTRAL ADMINISTRATIVE TRIBUNAL  
JAIPUR BENCH, JAIPUR

28

**ORDERS OF THE BENCH**

**Date of Order: 17.04.2012**

OA No. 308/2008

Mr. C.B. Sharma, counsel for applicant.  
Mr. Anupam Agarwal, proxy counsel for  
Mr. Indresh Kumar Sharma, counsel for respondents.

At the request of the learned counsel for the parties,  
put up the matter on 23.04.2012 for hearing.

*By* *Anil Kumar*  
(ANIL KUMAR)  
MEMBER (A)

*K. S. Rathore*  
(JUSTICE K.S. RATHORE)  
MEMBER (J)

Kumawat

23/04/2012

OA No. 308/2008

Mr. C.B. Sharma, counsel for applicant.  
Mr. Indresh Kumar Sharma, counsel for respondents.

Heard.  
O.A. is disposed of by a separate  
order on the separate sheets for  
the reasons recorded therein.

*Anil Kumar*  
[Anil Kumar]  
Member (A)

*K. S. Rathore*  
[Justice K.S. Rathore]  
Judl. Member

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,  
JAIPUR BENCH

Jaipur, this the 23<sup>rd</sup> day of April, 2012

ORIGINAL APPLICATION No. 308/2008

CORAM:

HON'BLE MR. JUSTICE K.S.RATHORE, MEMBER (JUDL.)  
HON'BLE MR. ANIL KUMAR, MEMBER (ADMV.)

Mukesh Shukla  
s/o Shri Mool Chand Shukla,  
r/o 196, Swarajya Nagar, Panki,  
Kanpur (UP), aspirant for  
appointment to the post of  
Technician Grade-III (Fitter)  
Under Chief Works Manager,  
North Western Railway,  
Ajmer.

... Applicant

(By Advocate: Shri C.B.Sharma)

Versus

1. Union of India,  
Through General Manager,  
North Western Zone,  
North Western Railway,  
Jaipur.
2. Chief Personnel Officer,  
Office of General Manager,  
North Western Zone,  
North Western Railway,  
Jaipur
3. Chief Works Manager,  
North Western Railway,  
Ajmer Division,  
Ajmer.

4. District Electrical Engineer (EPR),  
North Western Railway,  
Infront of Convenet School,  
Alwar Gate, Ajmer.
5. Secretary,  
Railway Recruitment Board,  
Ajmer.

... Respondents

(By Advocate : Shri Indresh Kumar Sharma)

ORDER (ORAL)

Brief facts of the case are that the respondent Railway Recruitment Board, Ajmer published a notification No. 2/2005 (Group-C) for filling up various posts. Pursuant to this notification, the applicant applied under category 32 for the post of Technician Grade-III (Fitter) in the scale of Rs. 3050-4590 for which two posts of general category were advertised with the medical category C-1 vide Ann.A/2. The applicant appeared in the examination held on 4.6.2006 by the Railway Recruitment Board, Ajmer. The result of the examination was declared on 31.8.2006 in which the applicant was declared successful under category 32 to the post of Technician Grade-III (Fitter). Thereafter, his name was recommended for appointment and in pursuance to that respondent No.2 issued letter dated 1.12.2006 (Ann.A/5).

2. Vide letter dated 9.1.2007, the applicant was directed to attend office with original documents for verification and in pursuance to that the applicant attended the office and submitted



all the documents and also completed formalities as desired by the respondents. The respondents further issued proposal for appointment on the post of Apprentice Electrical Fitter vide letter dated 26.9.2007 (Ann.A/1) in the scale Rs. 3050-4590 by prescribing three years training with medical category B-1 instead of offering the post of Technician Grade-III (Fitter) for which training for 6 months has been prescribed with the medical category of C-1 and thus changed the category from 32 to 36, which is evident from Ann.A/2.

3. The applicant immediately protested vide his letter dated 4.10.2007 and made request to allow appointment under category 32 to the post of Technician Grade-III (Fitter) scale Rs. 3050-4590 with medical category C-1, but the same was not considered by the respondents and forcing the applicant to join in the category in which he never appeared in the selection. Therefore, aggrieved and dis-satisfied with the action of the respondents as the applicant applied for the post of Technician Grade-III (Fitter) under category 32 but without any basis category of the applicant has been changed from 32 to 36, as such, the present OA has been filed.

4. Having heard the rival submissions of the respective parties and upon careful perusal of the material available on record and the relevant provisions of law, it is not disputed that the applicant is fully eligible for the post of Technician Grade-III (Fitter) under



category 32 and it is also not disputed that he has not qualified the examination for the post of Technician Grade-III (Electrical Fitter).

5. We have considered the submissions made on behalf of the respondents and we are not satisfied with the explanation so given by the respondents. During pendency of the OA, the learned counsel for the applicant time and again prayed for time to seek instructions with regard to change of category from 32 to 36. On 5.3.2012, the officer incharge, who was present in person during the course of arguments, informed that the matter is under active consideration and decision taken by the respondents will be informed on the next date. Further time was granted on 22.3.2012 and 17.4.2012. Today, when the matter came up for final disposal, the learned counsel appearing for the respondents informed the Tribunal that respondents are of the view that since the matter is sub-judice, they cannot take decision with regard to change of category from 32 to 36.


6. We had considered the explanation given by the respondents in their reply. Since the Tribunal was not satisfied with the explanation given, therefore, directed the respondents to file additional affidavit and the same has been filed. In para-11 of their additional affidavit, it is stated that the applicant do not possess the ITI in the required field, hence he had to under go for three years training as per Railway Board policy dated 17.9.2004, but it is not disputed that the applicant is fully qualified and possess the ITI

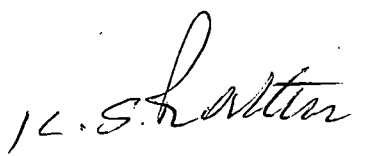


required for category No.32 for which he applied. It is only the respondents who changed the category from 32 to 36, which category the applicant has not qualified. Even though, vide impugned order dated 26.9.2007, the applicant's category was changed from 32 to 36 and asked him to join the duty as Technician Grade-III (Electrical Fitter). It is not disputed by the respondents that the applicant applied for the post under category 32 and for that category he is eligible and declared successful, but we fail to understand as to why the category of the applicant has been changed. Thus, action of the respondents appears to be arbitrary, discriminatory and violative of provisions of law.

7. Thus, in our considered view, we deem it proper to direct the respondents to allow the applicant to join his duty as Technician Grade-III (Fitter) scale Rs. 3050-4590 (category No. 32) and further direct to pass necessary orders in this regard expeditiously but, in any case, not later than two months from the date of receipt of a copy of this order.

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

  
(ANIL KUMAR)  
Admv. Member

  
(JUSTICE K.S.RATHORE)  
Judl. Member

R/