

**CENTRAL ADMINISTRATIVE TRIBUNAL
AMHEDABAD BENCH**

Original Application No. 336/2018
Dated the 28th day of August, 2018

CORAM :

Hon'ble Ms. Archana Nigam, Member (A)
Hon'ble Sh. M.C. Verma, Member (J)

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Shri Hasmukhbhai S/o Shri Gulabhai Vasava, aged 57 years, working as Tech.-I in the office of the respondents, residing at : 9, Sun Duplex, Nr. Banko Canal, Opp. Narayanadi Restaurant, Alladra, Vadodara-391 014.**Applicant**

(By Advocate Shri M.S.Trivedi)

VERSUS

1. Union of India through the General Manager, Western Railway, Churchgate, Mumbai-20.
2. The Divisional Railway Manager, O/o DRM, Western Railway, Pratapnagar, Vadodara - 4390 004.
3. Shri Chandrakant M. Parmar, Tech.-I.
4. Shri Yogesh J. Kataria, Tech.-I
5. Shri Sanju Virsing, Tech.-I.

Respondent Nos. 3 to 5, notice to be served through Respondent No. 2.**Respondents**

O R D E R (ORAL)

Per M.C.Verma, Member (Judicial)

Learned counsel for the applicant, while pressing instant O.A., has urged that suitability test has to be held for filling up eight vacancies of Senior Technicians, and a list of eligible employees for the proposed test was prepared and was circulated by the Respondents. That said list was consisted of two Parts viz., Part 'A' and Part 'B', and, name of applicant was in 'B' List at Sl. No.8. Objections were invited against the said Eligibility List dated 19th March, 2018 and, applicant submitted his objection on 23rd March, 2018 and that, for the reasons best known to respondents, without cancelling or modifying the Eligibility List dated 19th March, 2018, respondents revised the eligibility list of Technician – I for promotion to Senior Technician on 8th June, 2018 and, in the said revised list, name of 12 employees were there and name of applicant was not included.

2. The grievance of the applicant is that his name has not been included in the List dated 8th June, 2018 (Annex.A/1). The reliefs, contained in para No. 8 also reveals the sole grievance of non-inclusion of applicant's name in the revised eligibility list dated 8th June, 2018 and non-consideration of his representation dated 12th June, 2018. For the sake of gravity, contents of para No. 8 of the O.A. i.e. 'Relief Clause' is reproduced hereunder :-

"8 (A) That the Hon'ble Tribunal be pleased to allow this petition.

(B) That the Hon'ble Tribunal further be pleased to quash and set aside the impugned ex-facie, illegal, arbitrary, unjust and unconstitutional action, decision on the part of the respondents regarding non inclusion of the name of the applicant in Memo No. E / EL / 1130 / 8 /Vol. II dated 8.6.2018 issued by the respondents regarding revised eligibility list for suitability test of Tech. I (P) PB Rs. 5200 – 20200 + 2800 = Level – 5, for promotion to the post of Sr. Tech., PB Rs. 9300 – 34800 + 4200 – Level – 6, Elect)P) Department, BRC Division, as well as not considering the request / representation / objection dated 12.6.2018 of the applicant.

(C) That, the Hon'ble Tribunal further be pleased to direct the respondents to include the name of the applicant in memo dated 8.6.2018 of the respondents (Annexure A/1).

(D) Such other and further relief/s as may be deemed just and proper in view of the facts and circumstances of the case may be granted."

3. It is obvious from the pleadings and from the reliefs sought vide para No. 8 that applicant, after revising list dated 8th June, 2018, made Representation on 12th June, 2018 and, his grievance is also that his Representation dated 12th June, 2018 has not been considered and decided. Section 20 of the Central Administrative Tribunal Act, 1985 speaks about availing of remedies to be exhausted, which reads as under :

"20. Application not to be admitted unless other remedies exhausted.-

(1) A Tribunal shall not ordinarily admit an application unless it is satisfied that the applicant had availed of all the remedies available to him under the relevant service rules as to redressal of grievances.

(2) For the purposes of sub-section (1), a person shall be deemed to have availed of all the remedies available to him under the relevant service rules as to redressal of grievances,-

(a)if a final order has been made by the Government or other authority or officer or other person competent to pass such order under such rules, rejecting any appeal preferred or representation made by such person in connection with the grievance; or

(b) where no final order has been made by the Government or other authority or officer or other person competent to pass such order with regard to the appeal preferred or representation made by such person, if a period of six months from the date on which such appeal was preferred or representation was made has expired.

(3)For the purposes of sub-sections (1) and (2), any remedy available to an applicant by way of submission of a memorial to the President or to the Governor of a State or to any other functionary shall not be deemed to be one of the remedies which are available unless the applicant had elected to submit such memorial".

4. It is undisputed that representation has been made by applicant on 12th June, 2018.

The present O.A. was preferred on 2nd July, 2018, .e. after about 20 days of representation.

As per Section 20 of the Central Administrative Tribunal Act, 1985, aggrieved person shall be deemed to have been availed of all the remedies available under the relevant service rules as to redressal of grievance where no final order has been made by the Government or other authority or officer or other person competent to pass such order with regard to his representation, if a period of 6 months from the date on which such a representation was made, has expired.

5. In the instant case, as noted above, only 20 days had passed at the time of filing the O.A. and not the period of six months as has been provided under Section 20 of the aforesaid Act. The O.A. is thus premature and deserves dismissal on this score alone. Accordingly, the O.A. is dismissed being premature. However, before parting, we intents to express our hope that representation, if has been preferred by the applicant, shall be decided by the competent authority as expeditiously as possible.

[M.C.Verma]
Member (J)

[Archana Nigam]
Member (A)

