

# **Central Administrative Tribunal Principal Bench, New Delhi**

O.A.No.3591/2016

Order on interim reserved on 28<sup>th</sup> October 2016

Pronounced on 3<sup>rd</sup> December 2016

**Hon'ble Mr. Raj Vir Sharma, Member (J)**  
**Hon'ble Mr. K.N. Shrivastava, Member (A)**

Amrit Lal Meena

(Mr. Yogesh Sharma, Advocate)

..Applicant

Versus

Union of India & others

(Mr. Kripa Shanker Prasad, Advocate)

..Respondents

## **O R D E R on interim**

**Mr. K.N. Shrivastava:**

The applicant through the medium of this O.A. filed under Section 19 of the Administrative Tribunals Act, 1985 has prayed for the following specific relief:-

“(i) That the Hon'ble Tribunal may graciously be pleased to pass an order of quashing the order 10.8.2016 (Annex.A/1), declaring to the effect that the same are illegal, arbitrary and against the rules and consequently, pass an order directing the respondents to appoint/post the applicant to the post of Commercial Apprentice in Pay band 9300-34800+4200GP) with all the consequential benefits including the seniority and pay fixation from the date of posting of similarly situated and junior persons.”

2. The brief facts of the case are as under:-

2.1 The applicant was initially appointed as Commercial Clerk in Northern Railway, Delhi Division on 01.06.2010. Pursuant to the selection conducted by the respondents in the year 2014 for the post of Goods Guard against 60% departmental quota, the applicant also applied for the said post.

2.2 In April 2015, the respondents also invited applications for the post of Commercial Apprentice (Pay Band `9300-34800+ `4200 GP) under 10% limited departmental competitive examination (LDCE) quota, the feeder cadre for which is Commercial Clerk. The applicant applied for the said selection too.

2.3 The examination for the post of Goods Guard was conducted on 21.09.2014 and the result was declared on 27.02.2015, in which the applicant was declared successful. He underwent training for Goods Guard from 22.04.2015 to 15.06.2015. On completion of training, he was appointed as Goods Guard on 15.09.2015.

2.4 The written test for Commercial Apprentice was held on 12.09.2015, i.e., three days before the applicant got his posting as Goods Guard. The result of the examination for Commercial Apprentice was declared on 15.02.2016 in which the applicant was declared as successful.

2.5 The applicant was not allowed to go for training for the post of Commercial Apprentice, apparently on the ground that he was in the cadre of Goods Guard and not of Commercial Clerk. It is the case of the applicant that the office of respondent No.2 verbally instructed him to resign from the post of Goods Guard and revert to the post of Commercial Clerk, which would give him eligibility for appointment as Commercial Apprentice. The applicant submitted his representation dated 11.04.2016 (Annexure A-3) to the competent authority conveying therein his refusal for the post of Goods Guard and requesting that he may be treated as Commercial Clerk and thus be allowed to join the training for the post of Commercial Apprentice, for which he has already been selected through the selection process. The said representation was, however, rejected vide order dated 10.08.2016 (Annexure A-1).

2.6 The applicant thereafter made a representation dated 02.09.2016 (Annexure A-2) to respondent No.2 conveying therein his refusal for the post of Goods Guard and for his appointment as Commercial Apprentice. In this representation, he had cited the case of one Chanchal Kumar, who was allowed to join as Commercial Apprentice under the similar situation in the year 2012. The said representation of the applicant is still pending before the respondent No.2

In view of the above developments, the applicant has filed an instant O.A. The applicant has also prayed for the following interim relief:-

“..Hon’ble Tribunal may graciously be pleased to pass an order directing the respondents to relieve and to book the applicant for his training to the post of Commercial Apprentice in Pay band 9300-34800+4200 GP) with the coming batch w.e.f. 24.10.2010 provisionally till the final disposal of the OA...”

3. Brief arguments of Mr. Yogesh Sharma, learned counsel for applicant and Mr. Kripa Shanker Prasad, learned counsel for respondents on the interim relief were heard on 28.10.2016.

4. Admittedly, the feeder cadre for Commercial Apprentice under 10% LDCE quota is Commercial Clerk. The applicant had initially joined as Commercial Clerk under respondent No.2. For his career progression, he applied for selection to the posts of Goods Guard as well as Commercial Apprentice and was selected for both, as per the details described in the earlier paragraphs. His substantive appointment as Goods Guard came on 15.09.2015, i.e., after three days of his appearing in the examination for the post of Commercial Apprentice under 10% LDCE quota. The eligibility of the applicant for appointment as Commercial Apprentice, in view of having joined as Goods Guard, is the main bone of contention in the O.A., which would take some time for adjudication. The interim prayer of the applicant is that pending disposal of the O.A., the respondents may be directed to send him for training for the post of Commercial Apprentice

provisionally and if it is not done the applicant would be put to substantial disadvantage.

5. Taking the situational realities into consideration, we are, *prima facie*, of the view that no prejudice is going to be caused to either side if the interim relief is granted to the applicant. The said relief, however, would be subject to the final outcome of the O.A.

6. In the conspectus of the discussions in the foregoing paragraphs, we hereby grant the interim relief as prayed for by the applicant and direct respondent No.2 to allow the applicant to undergo the training for the post of Commercial Apprentice with the current batch. We, however, make it clear that this interim relief shall not create any equity or right in favour of the applicant.

7. List the O.A. on 06.01.2017. In the meantime, the respondents may file their reply.

Order **dasti**.

( **K.N. Shrivastava** )  
Member (A)

( **Raj Vir Sharma** )  
Member (J)

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