

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAATI BENCH

Original Application No.040/0048 of 2019

Date of Order: This the 18.02.2019

THE HON'BLE SMTI MANJULA DAS, JUDICIAL MEMBER
HON'BLE MR.N.NEHSIAL, ADMIISTRATIVE MEMBER

Sri S.Aswin , son of Shri M.Shekar,
Presently resident of Railway
Quartr No.151/A, Lakhimi Nagar,
East Gotanagar(Hill Side)
near Railway Maligaon,
Guwahti-781011, Assam

Applicant

By Advocate: Mr.U.K.Nair assisted
by Ms.N.Shyamal

-AND-

1. The Union of India
Represented by the Secretary
To the Railway Boar,
Ministry of Railways ,
Government of India,
New Delhi-110006.
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2. The Railway Boar, represented by its Secretary,
Ministry of Railways,
Government of India,
New Delhi-110006.

3. The General Manager,
N.F.Railways, Maligaon,
Guwahati-11
4. The General Manager (P),
N.F.Railways, Maligaon, Guwahati-11
5. The Senior Coaching Depot officer,
Coach Maintenance Depot.
N.F.Railway, Guwahati-11.

ORDER (ORAL)

Per Mrs.Manjula Das, Member(J):

This O.A. has been filed by the applicant under Section 19 of the Administrative Tribunals Act, 1985 seeking the following reliefs:-“

“8.1 To Set aside and quash the impugned communication dated 14.09.2017 (Annexure-A/1) along with the follow-up actions taken in pursuance thereof.

8.2 To direct the respondent authorities to allow the applicant to continue in his service as TE, in terms of his order of appointment dated 11.01.2017 with all consequential benefits of pay, seniority, etc.

8.3 To direct the respondent authorities to release to the applicant his arrears of pay in terms of prayer No.2 above.”

2. We have heard Mr.U.K.Nair, learned Sr.counsel assisted by Ms.N.Shyamal learned counsel for the applicant and Ms.Usha Das, learned Railway Standing counsel for the respondents, perused the pleadings and materials placed before us.

3. Learned Sr.counsel for the applicant submitted that the applicant on being successful in a selection process initiated in pursuance to the Employment Notice No.2/16, was recruited under Sports Quota for the discipline "Volleyball" and appointed against the post of Ticket Examiner (TE). The applicant, on such appointment, undergone training programme mandated for the post of TE and successfully completed the same.

4. Learned Sr.counsel submitted that the applicant had submitted certificates pertaining to his educational qualification and sports achievements to the competent authorities for verification was found to be proper. However, the Higher Secondary passing Certificate submitted by the applicant was not acceptable. Accordingly, vide

communication dated 14.09.2017 (A-1) it was held that as the minimum qualification prescribed for the post held by the applicant was Higher Secondary pass and the Higher Secondary Certificate produced by the applicant, purportedly not being recognised the post held by the applicant was revised as Tech.III in NGC diesel Shed.

5. Learned counsel further submitted that the applicant had preferred a representation dated 28.06.2018 before the Joint Secretary Railway Sports Promotion Board, New Delhi and contended that the Higher Secondary Certificate produced by him was from a recognised Institute and prayed for a re-verification of his said certificate and for follow-up action thereon.

6. The applicant preferred representation on 06.02.2019 but the same not having evoked positive response the applicant was forced to join against the post of Tech.III on 29.08.2018. The contention of the authority in the order dated 14.09.2017 is clearly perverse inasmuch as, in pursuance to directives passed by the Hon'ble High Court

of Chhattishgarh, the order dated 22.04.2013 was reconsidered and pursuant to such reconsideration the said order dated 22.04.2013 was withdrawn and the RIOS was allowed to continue with the works assigned to it. Further vide order dated 24.09.2013 the Chhattisgarh State Open School proceeded to withdraw and cancel the order dated 22.04.2013 and RIOS was allowed to continue with the works assigned to it vide Notification dated 20.03.2013.

7. Learned Sr.counsel further submitted that the respondents authorities vide communication dated 10.10.2018 required the applicant to be deputed for undergoing 3 years induction training at STC/NBQ as mandated for the post of Tech.III. The said communication was followed by a further communication dated 01.01.2018 required the applicant to be deputed for undergoing 3 years induction training at STC/NBQ as mandated for the post of Tech.III. The said communication was followed by a further communication dated 01.02.2019 by which the applicant was directed to report for the said training

immediately. The applicant who was primarily recruited for the discipline "Volleyball" is presently involved in training for the scheduled tournaments where he would be representing the Railway Team. However, if he is required to be attached to the training centre he would be not in a position to undergo the required practice and also would be deprived from participating in the said tournaments which would have an adverse effect on his playing career.

8. The applicant in view of the said position, preferred a representation dated 06.02.2019 before the authorities praying for deferring his attachment with the training centre at STC/NBQ for the time being. The said representation preferred by the applicant is yet to be considered and he had already being directed to undergo the Induction Training. The appeals made by the applicant before the authorities having failed to evoke any positive response, the applicant has filed this O.A.

9. Learned Sr.counsel for the applicant submitted that the ground assigned for the impugned action of

reversion effected in the case of the applicant vide notification dated 14.09.2017 being non-existent, the impugned communication dated 14.09.2017 cannot be sustained in the eye of law.

10. In view of the facts that without going into the merit of the case, we direct the applicant to make a comprehensive representation before the appellate authority within a period of 10 days. On receipt of such comprehensive representation, the respondents shall dispose of the same within a period of one month after affording due opportunity of being heard to the applicant.

11. Till such time, the applicant shall be continued in his service as TE, in terms of his order of appointment dated 11.01.2017.

12. O.A. stands disposed of accordingly at the admission stage itself. No order as to costs.

(N. NEIHSIAL)
MEMBER (A)
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(MANJULA DAS)
MEMBER (J)

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