

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH
JABALPUR

ORGINAL APPLICATION NO.200/00965/2011

Jabalpur, this Monday, the 25th day of February, 2019

**HON'BLE MR.NAVIN TANDON, ADMINISTRATIVE MEMBER
HON'BLE MR.RAMESH SINGH THAKUR, JUDICIAL MEMBER**

Papa Swami S/o Babu Swami, Aged about 60 years,
R/o Jawahar Nagar, B-58, Maugaon,
Mhow (Indore) M.P.-453441

- APPLICANT

(By Advocate – Shri S.K.Nandy)

Versus

1. Union of India Ministry of Railway,
Through General Manager, Western Railway,
Chhatrapati Shivaji Terminal, Mumbai-491904

2. Divisional Railway Manager (Establishment)
Western Railway, Ratlam (M.P.)-457001

- RESPONDENTS

(By Advocate – Shri Arun Soni)

(Date of reserving the order: 19.02.2019)

O R D E R

By Navin Tandon, AM.-

The applicant is aggrieved by his non-promotion to the post of Senior Technician.

2. The applicant has submitted as under:-

2.1 He was initially appointed as Khalasi on 03.06.1974 and in due course of time he was promoted as Technician Grade-I in the year 1998.

2.2 A notification dated 7.5.2010 (Annexure A-2) was issued notifying 8 vacancies (General-6, SC-1 & ST-1) of Senior Technician in the pay

scale of Rs.9300-34800 with grade pay of Rs.4200/- to be filled in through an trade test. Names of eligible candidates were also notified in the said notification and his name was placed at serial no.3.

2.3 The trade test was to be conducted on 24.06.2010. However, the same was cancelled due to administrative reasons.

2.4 He retired on attaining the age of superannuation on 30.06.2010.

2.5 The trade test was held subsequently on 27.07.2010 and the result of the same was declared on 29.07.2010. Promotion orders of certain junior persons like M.P.Unni Krishnan & others were issued on 13.08.2010 (Annexure A-6).

2.6 Aggrieved by his non-promotion, he filed Original Application No.1090 of 2010, which was disposed of vide order dated 07.01.2011 (Annexure A-8) with a direction to the respondents to consider applicant's representation and pass a reasoned speaking order.

2.7 The respondents have rejected his claim vide order dated 17.03.2011 (Annexure A-1).

3. The applicant has prayed for the following reliefs in this Original Application:-

“(8). Relief Sought:

It is, therefore, prayed that this Hon'ble Tribunal be pleased to:

- (i) summon the entire relevant record.
- (ii) Set aside the order dated 17.03.2011 (Annexure A-1) and direct the respondents to adjudge applicants suitability for promotion to the post of Sr.Technician as per his service

records and he may be promoted notionally on the post of Sr.Technician with all consequential benefits.

- (iii) Any other order/direction may also be passed.
- (iv) Award cost of the litigation to the applicant".

4. The respondents have submitted as under:-

4.1 The Original Application is misconceived and without any substance. Applicant has no case because when earlier assessment was done on 27.04.2010, only 2 posts were available and 6 posts were expected on account of promotion to the post of JE Higher Grade in the month of January,2011. Therefore, 8 posts were notified.

4.2 The name of the applicant was listed at serial no.4 in the seniority list. Hence, even if the applicant would have been selected/passed the trade test, then also he would not have been entitled for promotion because at that time only two posts were available.

5. In his rejoinder, the applicant has submitted that vacant post in the cadre on the date of notification was six and the applicant's name in the seniority was at serial no.4. Therefore, the applicant could have been promoted if the trade test was held on that particular date.

6. Heard the learned counsel of both sides and carefully perused the pleadings of the respective parties and the documents annexed therewith.

7. It is an admitted fact that promotion to the post of Sr.Technician was to be made after passing the trade test. The trade test was earlier scheduled to be held on 24.06.2010 but because of some administrative

reasons it was held on 26.07.2010. In the meantime the applicant retired on 30.06.2010 on attaining the age of superannuation. The applicant has not alleged any malice against any authority in postponing the date of trade test. It is only because of administrative reasons the trade test was postponed.

7.1 In the instant case the promotion was to be given only after passing the trade test. Therefore, it remains immaterial whether there were only two vacancies as averred by the respondents or six vacancies as contended by the applicant. Since the applicant could not fulfil the requirement of passing the trade test before his retirement, he cannot be given the relief sought for in this Original Application.

8. In the result, the Original Application is dismissed. No costs.

(Ramesh Singh Thakur)
Judicial Member

(Navin Tandon)
Administrative Member

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