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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

OA-1756/2003

New Delhi this the 15th day of July, 2003.

Hon'ble Shri Justice V.S. Aggarwal, Chairman
Hon'ble Shri S.K. Naik, Member(A)

Sh. Kulbhushan Khanna,
S/o Shri V.C. Khanna,
Technician-I, MOY
under SSE/SIG/W,
N.Railway, Delhi. Applicant

(through Sh. G.D.Bhandari, Advocate)

Versus

1. Union of India through
the General Manager,
Northern Railway,
Baroda House,
New Delhi.
2. The Divl. Railway Manager,
Northern Railway,
State Entry Road,
New Delhi. Respondents

ORDER(ORAL)

Shri Justice V.S. Aggarwal, Chairman

By virtue of the present application, the applicant has prayed that the order dated 19.06.2003 should be quashed and the application of the applicant for the post of Data Entry Operator Grade-I Rs.4500-700 should be forwarded to the concerned Authorities.

2. The impugned order in the present case reads as under:-

"Ref : DSTE/W/L.No.570-Sig/1/3 Pt.V dated
12.06.2003.

In reference to your application
dated 02.06.2003 for the post of Data



Entry Operator due to acute shortage of ESM Gr.I Rs.4700-7000 and more over the post of Data Entry Operator is of the same grade. Hence, your application cannot be forwarded to FA&CAO (Admn), Baroda House, New Delhi for selection for the post of Data Entry Operator in Gr. Rs.4500-7000.

This has the approval of Competent Authority. The employee may be informed accordingly."

3. It is obvious from the aforesaid that the application of the applicant has been withheld on the ground that there is acute shortage of ESM Gr.I. Learned counsel for the applicant has drawn our attention towards the guidelines issued by the Ministry of Railways to different General Managers pertaining to forwarding of the applications of the serving railway employees. Paragraph 2.2. in this case of the said directions reads as under:-

"While it is not feasible to define "public interest", the authorities should interpret the term strictly and subject to the condition that forwarding of applications should be the rule rather than the exception and the decision should be taken at appropriate level. In taking the decision to withhold the application, the authority has to balance the interests of the State against the necessity of causing hardship to the individual. This discretion should be applied with utmost objectivity and not mechanically. While it is not feasible to lay down specific exhaustive guidelines for withholding of applications in public interest, some of them can be listed illustratively, as follows:

- a) The officer concerned is engaged on important time-bound project and the work would be seriously distorted if he is relieved;

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- b) The Railway servant is applying for a post which is equivalent in status and work.
- c) Railway servant is facing departmental proceedings/ court/prosecution/under suspension."

4. Perusal of the said guidelines show that they are not exhaustive. The discretion is always with the higher authority of the department to see as to whether, keeping in view the exigency of work, application of a particular person should be forwarded or not. In the present application, there are no malafides involved. When there is shortage of staff the application could be withheld.

5. We find no interference is called for. Resultantly, the OA must fail and is dismissed.

S.K. Naik
(S.K. Naik)
Member(A)

V.S. Aggarwal
(V.S. Aggarwal)
Chairman