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CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI

OA NO. 3086/2002

This the 11th day of February, 2004

HON'BLE SH. KULDIP SINGH, MEMBER (J)

HON'BLE SH. S.K.NAIK, MEMBER (A)

1. Qamrul Islam,  
S/o Sh. Abdul Samih,  
Loco Fitter Gr. III - ART
2. Amar Singh (SC),  
S/o Sh. Basant Ram,  
Helper Khallasi - ART
3. Ghaffar Khan,  
S/o Sh. Sattar Khan,  
Fitter (Loco)-III - ART
4. Suraj Pal Singh,  
S/o Sh. Basant Singh,  
Loco Fitter Gr. III - ART
5. Yakoob Ali Khan,  
S/o Sh. Manjoor Khan,  
Loco Fitter Gr. III - ART
6. Yaad Ram,  
S/o Sh. Dal Singh,  
Loco Fitter Gr. III - ART
7. Chander Kishore-I,  
S/o Sh. Vishwanath,  
Helper Khallasi - ART
8. Ishtiq Ahmed,  
S/o Sh. Mustaq Ahmed,  
Helper Khallasi - ART
9. Khursheed Ali Khan,  
S/o Sh. Nawab Ali Khan,  
Loco Fitter Gr. III - ART
10. Ramesh,  
S/o Sh. Ram Swaroop,  
Loco Fitter Gr. III - ART
11. Nasir Ahmed,  
S/o Mohd. Basir,  
(All working under Sr. Section Engineer  
(Loco)/Moradabad - ART)

(By Advocate: Sh. G.D.Bhandari)

Versus

Union of India through

1. The General Manager,  
Northern Railway,  
Baroda House,  
New Delhi.
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2. The Divisional Railway Manager,  
Northern Railway.  
Moradabad.

(By Advocate: Sh. R.L.Dhawan)

O R D E R

By Sh. Kuldip Singh. Member (J)

Applicants who are 11 in number have filed this OA under Section 19 of the AT Act as all of them are stated to be aggrieved of respondents order dated 18.3.2002 and 5.5.2000 whereby certain alleged juniors to the applicants have been further promoted as Fitter Grade-II in the pay scale of Rs.4000-6000 while the seniors, the applicants, have been ignored. Applicants claim that they should also be given promotion at par with their juniors. i.e. from the date they were given promotion with all consequential benefits.

2. According to the applicant, steam sheds were abolished by the Railways in 1994-95. Thereafter the Railway Board issued an order dated 20.5.95 Annexure A-4 that Fireman and Cleaners will be given the training of Diesel/Electric Assistant Driver and be redeployed as such. Applicant also cleared Trade Test in 1992. However, they have neither been imparted training for Diesel/Electric Assistant Driver nor promoted as Fitter Gr. II and they have been stagnating for the last 10-12 years. whereas many juniors have been deployed in C&W Department and have been further promoted as Fitter Gr.I. Applicants are stated to have made a representation but to no avail.



3. Applicants were initially appointed as Loco Cleaners, a Group 'D' post in the Loco Department, Moradabad Division, Northern Railway from which further promotion is to the post of Second Fireman, First Fireman and then Diesel/Electric Assistant as shown below:-

i) Cleaner	775/1025	2550-45-3540
ii) Second Fireman	825-1200	2750-55-4400
iii) First Fireman/ Diesel/Electric Assistant	950-1400	3050-70-4590

4. It is further stated that the open line also lies in the Maintenance Cadre which is as under:-

i) Fitter Gr. III	800-1150	2650-50-4000
ii) Fitter Gr. II	1200-1800	4000-100-6000
iii) Fitter Gr. I	1320-2040	

5. It is further submitted that promotion in the Running Cadre are made on the basis of seniority-cum-suitability whereas promotion in the Maintenance Cadre are made on the basis of passing of the Trade Test and seniority-cum-suitability. Respondents had held a trade test in the year 1992 from Fitter Gr. III to Fitter Gr. II in which the eligible candidates participated and applicants also appeared as per Annexure A-2.

6. With the modernisation of the Railways instead of Steam Traction, Diesel/Electric Traction were introduced, resultantly the Steam Locos were phased out and the Steam staff after being given conversion training were also

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utilised in the Diesel/Electric Traction unless they retired on superannuation. For utilisation of such staff, orders have been issued from time to time. It is also ordered that these Foreman and Cleaners who are working on Steam Traction be imparted training for Diesel Assistant or Electric Assistant and they be utilised as such.

7. It was further ordered by the circular dated 20.5.95 that Steam staff who were rendered surplus consequent to diselisation and electrification should be redeployed as indicated in the circular itself which had also provision for promotions but respondents did not comply with the aforesaid policy with regard to the applicants and deployed them in the cadre of Accident Relief Trains which could absorb only negligible staff as the number of Accident Relief Trains were very small infact there were only 3 trains in Moradabad Division.

8. It is further submitted that despite the trade test applicants have been given a step-motherly treatment as they were ignored in the matter of re-deployment and most of the selectees who could win favour by way of illegal gratification were deployed as Fitter Gr.II in the Carriage & Wagon Department and some were deployed in the Operating Department as Train Clerk. Whereas the applicants who were senior to them could not be redeployed rather they had been ignored and continued to work with Accident Relief Trains. A representation is also stated to have been made but to no effect.



9. It is further submitted that respondents vide their circular dated 27.8.99 issued a seniority list of number of categories which formed one group like Boiler Maker, Helper Khallasi and Diesel Helper Khallasi. The name of one of the applicant Nasir Ahmed appears at Sl. No.16 but one junior to him Sh. Mukhtar Ali at Sl. No.18 who has been deployed like many other junior persons in the C&W Department. Similar is the case with other applicants. Applicants had been making representation but it did not yield any result.

10. Applicants claim that they had a legal right for promotion in the Steam Shed as vacancies had occurred prior to abolition of Steam Shed and otherwise also they have a legal right to be considered for absorption in the C&W Department like others most of whom are juniors to the applicants in the Fitter cadre of Gr.III. Thus, it is stated that respondents be directed to consider the applicant's case for promotion from the post of Fitter Grade III to the post of Fitter Gr. II from the year 1992. It is also prayed that respondents be directed to consider the benefit of ACP scheme. The benefits which have been sanctioned on the same post, applicants have stagnated for almost 16-17 years.

11. Respondents are contesting the OA. Respondents submitted that the application is barred by limitation as the applicants on their own admission submitted their representation dated 29.10.97 and the limitation prescribed under Section 21 of the Act expired on 29.4.99. present application is clearly barred by time. Respondents further submitted that the applicants had


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been appointed as Fitter Khallasi as per the duties given in their names but it is submitted that due to closure of steam loco activities. staff was redeployed with the consent of both the recognised Unions viz. NRMU and URMU on the basis of suitability adjudged with the written test and those who qualified in the suitability test, they were posted as UNC, TC, Guard etc. after passing the pre-requisite conditions.

12. It is further submitted that all the applicants who are working in Accident Relief Trains under the Sr. Section Engineer (Loco) Moradabad ART already got two promotions and are not covered under the ACP Scheme. It is also stated that all the applicants are not similarly situated, so joint OA is not maintainable. Conducting of trade test in the year 1992 25% are stated to have qualified including the applicants.

13. As regards the re-deployment is concerned, it is submitted that due to closure of steam activities. staff are redeployed with the consent of both the unions but the applicants did not apply for the post of Diesel Assistant so further action could not be taken for putting them as Diesel Assistant. Staff was redeployed in the C&W Section not as per seniority position but at the time as per the policy prevailing at that time according to which the juniormost is to be redeployed first but due to non-availability of vacancy further re-deployment could not be acceded to. Thus, it is submitted that OA has no merits and the same is liable to be dismissed.



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14. We have heard the learned counsel for the parties and gone through the record.

15. Counsel for respondents had raised a preliminary objection that the OA is barred by time, so the same should not be maintained. However, counsel for applicant submitted that he has also impugned an order of May, 2000 and he has earlier filed an OA-2213/2002 which has been withdrawn with liberty as Annexure A-2 was not annexed so opportunity is granted and OA is maintainable.

16. In our view also since the applicant is claiming promotion at par with order issued on 5.5.2000 as the applicant claims that some juniors to the applicant had been promoted vide order dated 5.5.2000 we find that OA is well within time. The other objection taken by the respondents is that joint application is not maintainable since applicants are not similarly placed. We think this is a hyper technical objection and this cannot affect the merits of the case as the main grievance of the applicant as it reveals from the OA is that despite the fact that they had been subjected to trade test for Fitter Grade-II the juniors had been deployed in C&W Section whereas they are continued in the Loco shed and those persons who were junior in the trade test have been given promotion. So this objection also has no merits.

17. As regards the merits of the case are concerned, it is an admitted case of the applicant themselves that all of them were initially recruited in the Loco Sheds. Because of the technology advancement the loco sheds were




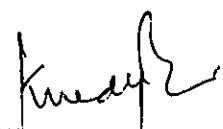
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being closed and were being replaced by Diesel Engines and electric engines, so the staff in loco sheds have become surplus.

18. Respondents in their counter affidavit had pleaded that as per the prevailing policy out of the surplus staff junior staff were first diverted to the other branches and some of them were sent to C&W Section whereas the applicants remain in the Loco Shed Section and were sent to Accident Train Relief Department as admitted by the applicant themselves. So after the deployment of the surplus staff in C&W Section the cadres of the employees had changed. Some of them remain in Loco Shed attached with Accident Relief Trains. The next promotion to each of the candidate were to be made within their own cadre. Applicants by impugning Annexure A-12 cannot compare themselves with the cadre of C&W Section who have been given promotion because applicants do not belong to C&W cadre.

3 19. The grievance of the applicant is that juniors to the applicants have been given promotion and have been redeployed in C&W Section but that decision was taken in the year 1992. Applicants did not object at that time at all nor they have given option as stated in the counter affidavit filed by the respondents. Now after such a long period applicant cannot have any grievance as to why they were not redeployed in the C&W Section nor they can raise any grievance against the promotion granted to the employees belonging to the C&W Section, may be they have been juniors to the applicants at some point of time. Thus, we find that OA has no merits and the same is liable to be dismissed. Accordingly, OA is dismissed.

  
( S.K. NAIK )  
Member (A)

  
( KULDIP SINGH )  
Member (J)