

Central Administrative Tribunal
Principal Bench, New Delhi

O.A.No.2032/2002

Hon'ble Shri S.A.T.Rizvi, Member(A)
Hon'ble Shri Shanker Raju, Member(J)

Monday, this the 12th day of August, 2002

1. S.J.. Bahadur
s/o Late Sir Jung Bahadur
r/o R.Z.2807
Street No..32
T.K.D.Extension
New Delhi..
2. L.S..Chandel
s/o Sri Daya Ram
r/o 38/B, Bari Mogal
Sarai, New Chandni Chowk
New Delhi..
3. R.P.Singh
s/o Uday Singh
R/o C-27-A
Gulabbagh
Railway Colony
Lazpatnagar
New Delhi..
4. J.K.Mishra
s/o Late J.N.Mishra
r/o C-2/K Railway Colony
Lazpatnagar
New Delhi..
5. M.I.Haque
s/o Mohd. Ibrahim
r/o 1/8, Railway Colony
Husaingunj
New Delhi..
6. Smt. Sarita Bhardwaj
Daughter of Prem Dutta Sharma
r/o 115 Railway Colony
Savanagar
New Delhi..

..... Applicants

(By Advocate: Shri T.S.Pandey)

Vs..

1. Union of India through
General Manager
Northern Railway
Barauda House
New Delhi..
2. Chief Personnel Officer
Head Quarter
Northern Railway
Barauda House
New Delhi..

3. Medical Director
 Northern Railway
 Central Hospital
 New Delhi.
4. Bishambhar Das Chitra
 Sr. Pharmacist
 Central Hospital
 Northern Railway
 Barauda House
 New Delhi.

... Respondents

O R D E R (Oral)

By Shri S.A.T.Rizvi, M(A):

Heard the learned counsel.

2. MA 1655/2002 for joining together is allowed.

3. Applicants, six in number, who are Pharmacists Grade-I in the pay scale of Rs.5500-9000 aspired for promotion to the next higher post of Chief Pharmacist - ~~or~~ Grade-II, which is placed in the higher grade of Rs.6500-10500. The relevant rules provide for the criterion of seniority-cum-fitness for purposes of promotion to the post of Chief Pharmacist Grade-II. The applicants herein are qualified for promotion in accordance with the aforesaid provision.

4. Learned counsel appearing on behalf of the applicants submits that the criteria for promotion being seniority-cum-fitness, the seniority position of the applicants is likely to ~~play a key role~~ in promotion. He further submits that the latest seniority list which has been circulated on 17.4.2002 (Annexure/A-I) and on which the respondents are likely to rely at the time of making promotions has not been

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correctly drawn up. The earlier seniority list issued on 12.8.1997 (Annexure/A-III) is also, according to the learned counsel, illegal.

5. The aforesaid latest seniority list being provisional in nature, applicants herein have filed a representation against the same on 15.5.2002 (Annexure/A-V). The respondents have not responded in the matter so far.

6. Learned counsel further submits that the principle followed in framing the aforesaid seniority lists, is in accordance with the 85th Constitutional Amendment Act, 2001, the operation of which has been stayed by the Supreme Court and this fact is very much within the knowledge of the respondents who have, by their own letter of 20.5.2002 (Annexure/A-II), directed the General Managers of all Indian Railways to comply with the status-quo direction given by the Supreme Court. The applicants herein apprehend that notwithstanding the provision made in the aforesaid letter (Annexure/A-II) the respondents are likely to proceed further and ~~not~~ resort to promotion on the basis of the aforesaid impugned seniority list.

7. We have considered the submissions made by the learned counsel and the aforesaid facts and circumstances. The applicants have filed their representation only recently. The official respondents should therefore be allowed time to consider their matter and take a decision. We can only hope that ~~they~~ having issued the aforesaid letter of

6

20.5.2002 (Annexure/A-II), the official respondents will correct the seniority position accordingly and proceed in the matter of promotion only thereafter.

8. In the aforesaid circumstances, we find that the interest of justice will be duly met by disposing of this OA at this very stage with a direction to the official respondents to consider the aforesaid representation by having regard to the contents of their own letter of 20.5.2002 (Annexure/A-II) and pass a reasoned and speaking order thereon as expeditiously as possible and in any event within a period of two months from the date of receipt of a copy of this order. We direct accordingly. In the facts and circumstances of this case, we further direct that until orders as above have been passed, the official respondents will not place reliance on the aforesaid impugned seniority list for the purpose of making promotion to the post of Chief Pharmacists Grade-II.

9. The OA is disposed of ⁱⁿ the aforesaid terms. No costs.

S. Raju
(Shanker Raju)
Member(J)

S.A.T.Rizvi
(S.A.T.Rizvi)
Member(A)

/rao/