

4

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH

O.A. NO.2556/2002  
M.A. No.2176/2002

New Delhi this the 3rd day of October, 2002.

HON'BLE SHRI JUSTICE V.S. AGGARWAL, CHAIRMAN

HON'BLE SHRI M.P.SINGH, MEMBER (A)

1. Shri Vijay Kumar Singh  
Welfare Inspector  
Northern Railway,  
Baroda House,  
New Delhi.

2. Shri Kishan Kant Lavania,  
Enquiry-cum-Reservation Clerk,  
Central Enquiry Office  
Northern Railway  
D.R.M. Office,  
State Entry Road,  
New Delhi

... Applicants

( By Shri B.S. Mainee, Advocate)

-versus-

Union of India : Through

1. The Secretary,  
Ministry of Railways  
Rail Bhawan,  
New Delhi.
2. The General Manager,  
Northern Railway  
Baroda House,  
New Delhi
3. Shri Kushal Pal Singh  
Asstt. Public Prosecutor, R.P.F.  
Northern Railway,  
Allahabad (U.P.).
4. Shri Prakash Chand Tripathi  
Commercial Inspector  
Northern Railway,  
D.R.M. Office,  
Lucknow
5. Shri Dinesh Singh Bisht  
Sr. Welfare Inspector  
Northern Railway,  
D.R.M. Office,  
Ambala (Haryana)

6. Shri Babu Lal Gahlot  
Asstt. Station Master  
Northern Railway, Dihera  
Bikaner (Rajasthan)
  7. Gaya Prasad  
Enquiry-cum-Reservation Clerk,  
N. Rly.  
IRCA Building,  
New Delhi.
  8. Awadesh Kumar  
Head Clerk, N. Rly.  
Alambagh  
Lucknow.
  9. Shri Lakhbir Singh  
E&RC, Northern Rly.  
DRM Office,  
New Delhi.
- ... Respondents

O R D E R (ORAL)

JUSTICE V.S. AGGARWAL:-

MA No. 2176/2002

MA No. 2176/2002 for joining together in a single  
OA is allowed.

OA No. 2556/2002

Applicant No. 1 had been appointed as Technician  
Grade III on 4.2.1992 and applicant No. 2 as Assistant  
Station Master on 4.7.1994. Both of them are Law  
Graduates. They have put <sup>in</sup> more than 5 years service in  
the Railways and thus become eligible to be considered  
for the post of Law Assistant.

2. Selection for the post of Law Assistant to  
fill up promotee quota had been held in the year 1995.  
Thereafter no selection was effected. In 1998,



respondent No.2 initiated the selection to fill up 5 posts of Law Assistant in the promotee quota. In the year 1999, a fresh notification was issued to fill up the said vacancies. The examination was not held. The post of Law Assistant is a general post and applications were again invited. In the written test, the applicants had qualified and thereafter there was viva voce test. The applicants had not been selected.

3. By virtue of the present application, the applicants seek quashing of the panel of 24.9.2002 and a direction to the respondents to form the panel in accordance with overall merit.

4. The learned counsel for the applicants has assailed the said selection on two counts:-

(1). The panel has been drawn on the basis of the seniority and it is alleged that it is not totally on merits.

(2). Bunching of the vacancies is not permissible. While in the present case, the vacancies had been bunched and it has deprived a valuable right to the applicants.

5. After hearing the learned counsel for the applicants, we find that his contention is without merit.



6. The Supreme Court in the case of **M. Ramjayaram v. General Manager, South Central Railway & Ors.** 1996 (1) SCC SLJ 537 held that it is illegal to award marks for seniority. There is no controversy in this regard. In the present case in hand, a written test was held in the promotee quota and certain candidates had been selected. Their names had been indicated in the order of seniority and reference had been made in this regard to the Railway Board's letter dated 16.11.1998. The applicants have not cared to challenge the said letter of the Railway Board so as to indicate that no specific marks had been given on the basis of seniority. In the absence of the said letter having been questioned, the argument of the learned counsel, therefore, in that connection must fail.

7. Main stress, however, is on the controversy that there had been bunching of the vacancies. Reliance has been placed on a decision of the Supreme Court in the case of **Vinod Kumar Sangal v. Union of India and Others**, (1995) 4 SCC 246. In the cited case Vinod Kumar was a Drilling Assistant. Certain Departmental Promotion Committee meetings were held and some persons were selected. There was bunching of the vacancies. The Supreme Court held that bunching of the vacancies was not permissible because there has to be separate selection for the vacancies of each year. The same question had been considered by the Delhi High Court in the case of **Shri N.G.L. Goswami and**

ls Ag e

others v. Union of India and others in Civil Writ Petition No.5617/1997 decided on 19.8.2002. Once again the Delhi High Court held that it was not permissible for the railway authorities to club all the vacancies for the years 1994 and 1995 and hold one selection rather than a yearwise panel. We find that the said principle in fact is not in controversy. But in the present case in hand, it appears that when earlier the examination was listed to take place, there were three general vacancies besides one post each for SC and ST candidates. Applicants appeared ~~as~~ <sup>as</sup> ~~be~~ general candidates. In the subsequent examination held, there were four general vacancies. When the test was being held, the applicants did not protest. They took the test but unfortunately did not succeed. It is too late in the day therefore, to challenge the same particularly when the posts were to be filled up in the promotee quota and in that view of the matter the assertion that a yearwise panel has to be prepared would not be correct.


8. In the face of the aforesaid, the decision of the Delhi High Court in the case of N.G.L.Goswami (supra) will have little application. In that case persons challenging the bunching of the vacancies in fact were already working on ad hoc basis and a panel had to be prepared. It is obvious that the cited case is distinguishable from the facts of the present case. Consequently, we find that the present application is


CSAq

9

totally devoid of any merit .The same must fail and is  
dismissed in limine.

Announced.

  
(M.P.SINGH)  
MEMBER (A)

  
(V.S.AGGARWAL)  
CHAIRMAN

/sns/

6