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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

O.A.NO.3142/2002
M.A.NO.2672/2002

Thursday, this the 2nd day of January, 2003

Hon'ble Mrs. Lakshmi Swaminathan, Vice Chairman (J)
Hon'ble Mr. Govindan S. Tampi, Member (A)

1. Puran Lal s/o Shri Kalyan Singh
r/o 1444, Vijay Nagar, Ghaziabad
2. Taj Pal Singh s/o Shri Bhollay Singh
r/o Q.No.332/9, Punjab Line, Railway Colony
Ghaziabad ..Applicants
(By Advocate: Shri Yogesh Sharma)

Versus

1. Union of India through the General Manager
Northern Railway, Baroda House, New Delhi
2. The Divisional Railway Manager
Northern Railway, Delhi Division,
Near New Delhi Railway Station, New Delhi
3. The Divisional Personnel Officer
DRM's Office, Northern Railway,
Delhi Division, Near New Delhi
Railway Station, New Delhi ..Respondents

O R D E R (ORAL)

Hon'ble Mrs. Lakshmi Swaminathan:-

The two applicants, who have filed this application, are aggrieved by the non-action of the respondents in not considering their cases for promotion to the post of Fitter, while, according to them, they have promoted junior persons. They have alleged that the action of the respondents in promoting the junior persons, ignoring their claims for consideration for promotion is, therefore, illegal, arbitrary and against the relevant rules.

2. We have heard Shri Yogesh Sharma, learned counsel and have perused the relevant documents on record. He has drawn our attention to Annexure A-1 letter dated 20.3.2002 from the office of respondent No.2. In this

Yours,

letter, it has been stated, inter alia, that they will be called for professional test along with aptitude test. The grievance of the applicants is that although more than nine months have elapsed since that letter, they have not been called for the tests, whereas their juniors have been so tested and given the promotion to the post of Fitters. Learned counsel has also submitted that the applicants have submitted representations on 31.1.2002 and 15.4.2002 (Annexures A-1 and A-2) to which no replies have been received by them from the respondents. Hence, this OA.

3. In the application, the applicants have mainly sought a direction to the respondents to consider their cases for promotion to the post of Fitters from the dates of promotion of their juniors, with all consequential benefits, and also for a declaration that their action in not considering their cases in time along with the junior persons is illegal. From the facts mentioned above and the reliefs prayed for by the applicants, if indeed the respondents have not considered the cases of the applicants for promotion to the post of Fitters in accordance with the relevant rules and instructions while considering their juniors, that action cannot be sustained in law. The applicants have not been able to show what exactly were the reasons that weighed with the respondents for not considering them in the professional test/aptitude test, as mentioned in their own order dated 20.3.2002 (Annexure A-1). It is relevant to point out that this letter has been addressed by respondent No.2 to one of the applicants, i.e., applicant No.1.

4. In the above facts and circumstances of the case, we consider that it will be in the interest of justice,

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even without issuing notice to the respondents, to dispose of this OA with the following directions to respondent Nos. 2 and 3:-

- i) The respondents to consider the above claims of the applicants in accordance with the relevant provisions of rules, law and instructions. In case the juniors of the applicants have been called for the professional test/aptitude test ignoring the applicants, the respondents shall hold such tests at the shortest possible time and in any case, within two months from the date of receipt of a copy of this order, and thereafter pass necessary orders immediately in accordance with law. The applicants shall be entitled to all the consequential benefits in case they pass these tests in accordance with law, including the difference in pay and allowances in the promoted post; and
- ii) In case the respondents do not consider that the applicants should be called for the tests, as directed above, they shall pass a reasoned and speaking order duly supported by the provisions of law and rules as to why the applicants have not been considered for promotion to the higher post of Fitter. This shall be done within two months from the date of receipt of a copy of this order, with intimation to the applicants.

Govindan S. Tampi)
Member (A)

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Lakshmi Swaminathan
(Mrs. Lakshmi Swaminathan)
Vice Chairman (J)