

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH
JABALPUR

Original Application No.200/239/2015,
200/660/2015 & 200/1050/2016

Jabalpur, this Friday, the 10th day of January, 2020

HON'BLE SHRI NAVIN TANDON, ADMINISTRATIVE MEMBER
HON'BLE SHRI RAMESH SINGH THAKUR, JUDICIAL MEMBER

1. Jitendra Mukhariya S/o Bhagwat Prasad Mukhariya aged about 29 years Resident of N/11, Sanjeevani Nagar 90 Quarter Garha Jabalpur PIN 482003
2. Ajay Kumar Thakur S/o Puran Singh Thakur aged about 32 years Resident of Village / Post Richhai Dist- Jabalpur (MP) PIN 482010
3. Sangita Sharma W/o Vishuni Sharma Aged about 33 years Resident of H.No.179 Ganga Maiya Vishwakarma Temple Vehicle Estate Jabalpur (M.P.) PIN 482009
4. Abhimanyu Giri Goswami S/o Ramgiri Goswami aged about 27 years Resident of Village Hardua Kala Post Deorakala Tehsile Vijayaraghavgar Disst.- Katni PIN 483775
5. Arvind Kumar Chouhan S/o Vishnu Prasad Chouhan aged about 25 years Resident H.NO.846 Samiksha Town Phase-3 Kanchghar Road, Jabalpur (MP) PIN 482001
6. Nilesh Puri Goswami S/o Shankar Puri Goswami aged about 24 years Resident 780 Dixit Colony Katangi Road, In front of Jabalpur Shiksha Niketan School, Jabalpur (MP) PIN 482002
7. Sunil Sen S/o Purushottam Sen aged about 27 years Resident of H. No. 1985 Sai Saloon Near Badshah Halbai Mandir Polipathar Gwarighat Road, Jabalpur PIN 482008
8. Ajay Kumar Patel S/o Rajendra Kumar Patel aged about 32 years Resident of Main Road, Deori Khurd Statin (Ram-ward) Near Pipal Tree, Post- Panagar Dist-Jabalpur PIN 483220

9. Meeta Saxena D/o Ravi Shankar Saxena Aged about 28 years, Resident of H.No. 1515 Vijay Nagar, Chhapar Rampur Jabalpur (M.P.) 482002

10. Ashish Sahu S/o Nemichand Sahu aged about ____ years, Resident of Street No.18 House No.876, Sadar Bazar Cantt. Jabalpur 482001

11. Bhuvan Singh Rajput S/o Umma Prasad Rajput aged about 31 years Resident of Gram Parasiya Post-Gohana Teh-Chhapara Dist-Seoni (M.P.) 482882

12. Preeti Jain D/o Pradeep Jain aged about 25 years resident of infront of Power House Pipal Mohalla Itarsi Distt. Hoshangabad (M.P.) 461111

All applicants are unemployed

-Applicants in O.A. No.200/239/2015

(By Advocate –**Shri M.K. Verma**)

1. Ramavtar Mali S/o Ramsavroop Mali aged about 26 years R/o Vill. & Post Navgaon (Bandadya Ki Dhani) Tehsil Gangapur City Distt. Sawai Madhopur (Raj.) Pincode 322224

2. Jagdish Mali S/o Prabhulal Mali aged about 27 years R/o Vill. & Post Navgaon (Bandadya Ki Dhani) Tehsil Gangapur City Distt. Sawai Madhopur (Raj.) Pincode 322224

3. Pradeep Kumar Saini S/o Ramesh Chand Saini Aged about 29 years R/o Vill. & Post Kargaon Tehsil Sapotra Distt. Raruli Rajasthan PIN Code 322255

-Applicants in O.A. No.200/660/2016

(By Advocate –**Shri M.N. Banerjee**)

Ravindra Kumar Verma S/o Shri Virendra Kumar Verma Aged about 33 years Resident of 740 Near Sharma Madan Mahal Jabalpur (M.P.)

-Applicants in O.A. No.200/1050/2016

(By Advocate –**Shri M.N. Banerjee**)

V e r s u s

1. Union of India, Through the General Manager, West Central Railway Near Indira Market Jabalpur PIN 482001

2. Chairman Railway Recruitment Cell West Central Railway RB-III 422/1-2 Nehru Railway Colony Howbagh Jabalpur PIN 482001
- **Common Respondents in all O.As**

(By Advocate –**Shri S. Ganguly in O.A. No.200/239/2015, Shri Y.N. Mishra proxy counsel for Shri Sapan Usrethe in O.A. No.200/660/2016 & Smt. A. Ruprah in O.A. No.200/1050/2016**)

O R D E R (Oral)

By Navin Tandon, AM:-

Since the issue involved in all three Original Applications are similar and they are being adjudicating with the common order.

2. For the purpose of facts, the details given in O.A. No.200/239/2015 are being taken.

3. The brief undisputed facts of the case are as under:-

3.1 The respondents had issued Employment Notice No.02/2012 on 22.08.2012 (Annexure A/1) for recruitment of 856 vacancies in Grade Pay of Rs.1800/-. Subsequently 356 further vacancies were added to make a total of 1212. After written test and physical efficiency test, 1451 candidates were called for document verification to the extent of vacancies and 20% more candidates. Document verification was held from 28.04.2014 to 28.05.2014.

3.2 It was stated in the call letter that 20% extra candidates were called for document verification and merely calling for document verification will not entitle for appointment in Railways.

3.3 The Railway Recruitment Cell (RRC) has issued 5 panels during the years 2014 to 2018 for a total of 1084 candidates thus leaving 128 vacancies. Out of these 128 vacancies, 100 vacancies are reserved for handicapped persons and remaining 28 vacancies are left for other reserved categories.

3.4 It has further been confirmed (Annexure RR-1) by respondent-department that out of 1084 numbers for which panel have been declared, 106 numbers have not turned up. No replacement panels have been issued against 106 numbers who have not turned up because of direction issued by Railway Board's letter dated 10.01.2014 (RBE No.06/2014) which states that no replacement panel are to be given against non joining of selected candidates.

4. The applicants have prayed for the following reliefs:-

“8.1 To kindly command respondents to produce all relevant record specially the answer copy of all applicants with valuation of marks in order to know the actual marks obtained by applicants and also how the normalized percentage of marks has been worked out.

8.2 Respondents be kindly commanded to produce before Hon’ble Tribunal the position of number of posts for which selection was conducted and the number of posts actually filled up and number of vacant post and if the applicants are eligible they may be absorbed/appointed against vacant posts.

8.3 The applicants who have applied against OBC category with OBC certificates may be treated as OBC and considered for appointment against OBC posts.

8.4 Any other relief which Hon’ble Tribunal may kindly consider reasonable under facts and circumstances of the case.

8.5 Cost of the petition may kindly be allowed.”

5. The main grounds of the applicants are that since they were covered under 20% extra candidates called for document verification, they should be considered for filling vacant posts out of the selection under consideration.

6. The argument from the respondent’s side is that since Railway Board vide order dated 10.01.2014 (RBE

No.06/2014) has held that no replacement panels are to be given against non joining of selected candidates, therefore, no further panels are being given by RRC.

7. Learned counsel for the applicant relies upon the judgment of Hon'ble Supreme Court in Civil Appeal No.11360-11363 of 2018 titled as ***Dinesh Kumar Kashyap and Ors. etc. vs. South East Central Railway and Ors. etc.***

8. Learned counsel for the respondents again submitted that since RBE No.6/2014 had been received prior to issue of even the first panel, therefore, the same will be applicable to all the panels which are being issued under the said panel. The para 2 of the said RBE No.06/2014 is as under:-

“2. It is also directed that no replacement panels are to be given against non-joining of selected candidates, as recruitment in Pay Band-I (Grade Pay Rs.1800) is now done annually in terms of instructions contained in Board's letter No.E(NG)II/2007/RR-1/58 dated 08/12/2011.”

9. We have considered the matter. It is clear that $128 + 106 = 234$ vacancies could not be filled in the said selection as shown in Para 3.3 and 3.4 above.

10. We have also gone through the judgment passed by Hon'ble Supreme Court in the matter of ***Dinesh Kumar Kashyap*** (supra) decided on 27.11.2018 which has held as under:-

“14. In view of the above, the appeals are allowed. The judgment of the High Court and CAT, Jabalpur Bench are set aside. The appellants are entitled to the benefit of the letter dated 02.07.2008. While allowing the appeals we issue the following directions:-

(i) The benefit of this judgment shall only be available to those appellants who had approached the CAT;

(ii) The appellants shall not be entitled to any back wages;

(iii) The appellants shall, for the purpose of seniority and fixation of pay be placed immediately above the first selected candidates of the selection process which commenced in the year 2012 and, immediately below the candidates of the selection list of 2010 in order of seniority;

(iv) The appellants shall be entitled to notional benefits from the date of such deemed appointment only for the purposes of fixation of pay and seniority.”

11. We find that the instant Original Applications are squarely covered by the judgment of Hon'ble Apex Court. The present set of applicants have approached this Tribunal in the years 2015 and 2016, i.e. much before the judgment of Hon'ble Apex Court on 27.11.2018.

12. Accordingly, we direct the respondents to grant the same benefit to all the applicants herein as granted by Hon'ble Supreme Court in *Dinesh Kumar Kashyap* (supra). The said exercise should be completed in 90 days from the date of receipt of order. These Original Applications are accordingly disposed of. No costs

(Ramesh Singh Thakur)
Judicial Member

(Navin Tandon)
Administrative Member

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