

**CENTRAL ADMINISTRATIVE TRIBUNAL**  
**PATNA BENCH, PATNA**  
**OA/050/00667/2016**

Date of order: 28.01.2020

**C O R A M**

**HON'BLE MR. JAYESH V. BHAIRAVIA, JUDICIAL MEMBER**  
**HON'BLE MR. DINESH SHARMA, ADMINISTRATIVE MEMBER**



1. Maha Mritunjay Kumar, Son of Sri Shiv Das Singh, Station Master, East Central Railway, Pusaili, District- Kaimur (Bihar).
2. Abhay Rai, Son of Sri Surya Nath Rai, Station Master, East Central Railway, Kudra, District- Kaimur (Bihar).
3. Abhishek Anand, Son of Sri Braj Mohan Singh, Station Master, East Central Railway, PIRO, District- Arah, Bhojpur (Bihar).
4. Anurag Kumar Singh, Son of Shri Jagdish Singh, Station Master, East Central Railway, Mohamadganj, Palamu.
5. Arbind Kumar Maurya, Son of Chhathu Singh, Station Master, Karwandia, District- Sasaram (Bihar).
6. Sanjeev Ranjan, Son of Saryu Prasad, Station Master, East Central Railway, Mugalsarai.
7. Kumar Rohit, Son of Late Rabi Shankar Singh, Station Master, East Central Railway, Bhabhua, District- Kaimur (Bihar).
8. Satish Kumar, Son of Late Lalan Ram, Station Master, Syadraza, East Central Railway, Chandauli.
9. Vishal Agnihotri, Son of Sri Bishma Pandey, Station Master, East Central Railway, Gaya (Bihar).
10. Amit Kumar, Son of Sri Janardan Prasad Singh, Station Master, East Central Railway, Gaya (Bihar).
11. Braj Kishore Singh, Son of Late Kameshar Prasad Singh, Station Master, East Central Railway, Haidernagar, Palamu.
12. Permanand Choudhary, Son of Faujdar Choudhary, Station Master, East Central Railway, Muthani, District- Kaimur (Bihar).
13. Ranjan Kumar, Son of Ram Krit Prasad, Station Master, East Central Railway, Durgawati, District- Kaimur (Bihar).
14. Manoj Kumar, Son of Shri Shyam Nandan Paswan, Station Master, East Central Railway, Muthani, District- Kaimur (Bihar).

....

Applicants.

By Advocate: - Mr. M.P. Dixit

-Versus-

1. The Union of India through the General Manager, East Central Railway, Hajipur, District- Vaishali (Bihar).

2. The General Manager (Personnel), East Central Railway, Hajipur, District- Vaishali (Bihar).
3. The Chief Operating Manager, East Central Railway, Hajipur, District- Vaishali (Bihar).
4. The Divisional Railway Manager, East Central Railway, Mugalsarai.
5. The Senior Divisional Operating Manager, East Central Railway, Mugalsarai.
6. The Senior Divisional Personnel Officer, East Central Railway, Mugalsarai.
7. The Senior Divisional Financial Manager, East Central Railway, Mugalsarai.

.... Respondents.



By Advocate: - Mr. K.P. Narayan

**O R D E R**  
**[ORAL]**

**Per Dinesh Sharma, A.M:-** In the instant OA, the applicants have prayed for quashing that part of the order dated 28.12.2015 (Annexure A/3) wherein only 9 vacancies have been shown. According to them, it should have been 99 vacancies, taking into account the 90 vacancies disclosed as on 31.10.2013 vide Annexure A/4. The applicants have also prayed for giving them the benefit of restructuring to the post of Station Master in Pay band of Rs. 9300-34800/- GP Rs. 4200/- w.e.f. 01.11.2013 in the same manner as has been granted in favour of 8 senior persons by order dated 26.03.2015 (Annexure A/3). Very briefly put, the applicants' claim is based on the information that they received by way of reply to a query under Right to Information Act (Annexure/4) where 90 posts are shown as vacant in GP of Rs. 4200/- on 31.10.2013.

2. The respondents have filed a written statement in which they have stated that on restructuring only 9 posts were found vacant on 01.11.2013 eight of which have been filled by the impugned order. While one post was kept vacant due to non-availability of ST candidates. The written statement gives detailed calculation of how the vacancies were worked out and also encloses a copy of the note (At Annexure R/4) where further details about this restructuring are given.



3. A rejoinder has been filed by the applicants denying the statements made in the written statement and reiterating the earlier stand that there were 99 vacancies as on 01.11.2013. It is also stated that no reservation can be applicable in promotion/restructuring and hence, one post earmarked for reserved category is bad in law in the teeth of judgment of Constitution Bench of Hon'ble Supreme Court in the case of M. Nagraj.

4. We have gone through the pleadings and heard the learned counsel for the parties. There is a huge gap in the ascertaining of vacancies as alleged by the applicant (99) and as determined by the respondents (9). The claim of the applicant is based on the information received to a query under Right to Information Act. This reply (Annexure A/4) shows that vacancies in Grade Pay Rs. 4200/-, on 31.10.2013, were 90 as there were total 380 sanctioned posts and 290 persons were working against them. The note annexed with the written statement (Annexure R/4) gives similar details where the sanctioned strength is

shown as 380 and 288 persons available on the rolls. It also explains how the vacancies were adjusted at the time of restructuring. The table very clearly shows that there was a reduction in vacancies of a total number of 60 due to cadre restructuring and an increase in this grade by 69 and thus the actual restructuring vacancies were only 9. It is also clarified further in this note that against the then existing vacancies, a total 90 employees had been given promotion (69 from 01.11.2013 and 21 from the date of joining) by another order No. 559 of 2014, dated 11.07.2014 in the restructuring file and therefore only remaining vacancies were 9.



After going through the detailed explanation given in the written statement and the Annexure R/4, we have no doubt that this OA has resulted from misunderstanding about the vacancies existing on 01.11.2013. There is apparently nothing wrong in the reply to the RTI query also which gives the position of 31.10.2013 , which gives the position before the restructuring on 01.11.2013. It is clear from paragraph 4.1 of RBE 102/2013 (Annexure A/2) of the OA that “normal vacancy existing on 01.11.2013 and those arising on that date from this cadre restructuring” were the relevant vacancies to be considered for filling, as decided in the restructuring circular. The difference between the figure shown in the RTI (90) and the one which has been taken as the relevant figure by the respondents (9), arises due to the latter figure being after taking into consideration the posts filled at this grade as a result of the restructuring which happened on 01.11.2013. The OA, therefore, does not have any merit. The claim regarding reservation of

one post for ST candidate made in the rejoinder is clearly an after-thought and not very relevant in the context of the main claim made by the applicants (about existence of 10 times larger number of vacancies than what turns out to be the actual case). The OA is, therefore, dismissed. No order as to costs.



[ Dinesh Sharma ]  
Administrative Member  
Srk.

[Jayesh V. Bhairavia]  
Judicial Member