

6

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A. NO.1381/2001

This the 16 ¹⁶ day of August, 2002.

HON'BLE SHRI V.K.MAJOTRA, MEMBER (A)

HON'BLE SHRI KULDIP SINGH, MEMBER (J)

1. Ajay Kumar S/O Hari Prasad,
R/O 13, Balbir Nagar Extn.,
Shahdara, Delhi.
2. Vishwnath S/O Raghuvir Singh,
R/O F-10/121, Sector 15,
Rohini, Delhi-85.
3. Inder Pal Singh S/O Badan Singh,
R/O T.T-50, Rly. Colony,
Shahdara, Delhi.
4. Chandan Singh S/O Arjun Singh,
R/O A-281, Laxmi Garden, Loni.
5. Ghan Shyam S/O Budhai Prasad,
J-375, Jahangir Puri, Delhi.
6. Harkesh Kumar S/O Man Singh,
R/O J-1419, Jahangir Puri, Delhi.
7. Naresh Kumar S/O Hargyan Singh,
R/O WZ-232/A, Sri Nagar,
Shakur Basti, Delhi-34.
8. Mahesh Kumar S/O Ram Chander,
R/O WZ-224, Sayed Nangloi,
Delhi-87.
9. Ashok Kumar S/O Reshem Lal,
R/O 5/C-3, Rly. Colony,
Punjabi Bagh, Delhi-26.
10. Joginder Singh S/O Ram Chander,
R/O 302/A, Rly. Colony,
Shakurbasti, Delhi-34.
11. Sanjay Kumar S/O Rajpal Singh,
R/O 10/C-3 Rly. Colony,
Punjabi Bagh, Delhi-26.
12. Pawan Kohli S/O J.C.Kohli,
R/O 10/B-3, Rly. Colony,
Punjabi Bagh, N.Delhi-26.
13. Bhupender Kumar S/O Nanak Chand,
R/O A-58, Mangol Puri, Delhi.
14. Manoj Kumar Tomar S/O Deputy Singh Tomar,
R/O 89/2 Rly. Colony,
Kishan Ganj, Delhi-7.

17

15. Ramesh Chander S/O Bhagwan Dass,
R/O 187/8, R.P.F. Line,
Daya Basti, Delhi-32.
16. Kamal Kishore S/O Devi Prasad,
R/O A-26 Rishi Nagar,
Rani Bagh, Delhi-34.
17. Yashpal S/O Ram Lal,
R/O C-158 Prem Nagar-II,
Nangloi, Delhi-41.
18. Bajrang Singh S/O Soran Singh,
R/O A-345 Inder Inct. Prag.I,
K.N. Nangloi, Delhi-41.
19. Sanjay Kumar Barua S/O Ashok Kumar,
R/O C-12/E, Lajpat Nagar Rly. Colony,
Delhi-24.
20. Babu Lal S/O Sher Singh,
R/O Vill. Narwawas,
P.O. Bilaheri,
Distt. Alwar (Rajasthan). ... Applicants

(By Shri B.S. Mainee, Advocate)

-versus-

1. Union of India through
General Manager, Northern Railway,
Baroda House, New Delhi.
2. Senior Manager (Printing & Stationery),
Printing Press, Northern Railway,
Shakurbasti, New Delhi. ... Respondents

(By Shri Rajeev Bansal, Advocate)

O R D E R

Hon'ble Shri V.K. Majotra, Member (A) :

Applicants, 20 in number, are trained apprentices who completed their training in book binding, offset plate making, process cameraman, machenist and literature lithography. They are aggrieved that although there are 52 vacancies in the Printing Press, Northern Railway, respondents have filled up 13 from those who did not undergo apprenticeship under respondent No.2 and were outsiders, and have not offered appointment to applicants.



2. The learned counsel of applicants relied on Annexure A-2 dated 26.2.1999 and Annexure A-3 dated 24.4.1998 to establish that there were 52 posts of Press Khalasi grade Rs.2550-3200 which were to be filled up by direct recruitment. Annexure A-2 is a communication from Senior Manager (Printing and Stationery), Northern Railway Printing Press, Shakurbasti, Delhi, regarding shortfall of 52 posts. Annexure A-3 is the joint inspection report of Northern Railway Printing Press, Shakurbasti conducted by officials of personnel, engineering, electrical, stores and representatives of NRMU along with Senior Manager (Printing & Stationery). Regarding filling up of the vacancies of Press Khalasis, the following observation was made :

"Sr. Manager (P&S) and staff represented regarding number of vacancies in lower grades and delay in promotion to the staff to higher grade. Sr. Manager (P&S) should send immediately the demand of 25 Press Khalasis filling up by Act Apprentices. The same will be expedited."

3. the learned counsel stated that applicants had appeared in the viva voce test held on 29.10.1999 and only one out of 25 candidates including applicants who had undergone apprenticeship in the Printing Press, Shakurbasti, were given appointment. 12 who were given appointment were others who had not been given apprenticeship in the Printing Press, Shakurbasti. The learned counsel relied on order dated 16.4.2002 in OA No.1101/1997 : Praveen Kumar Shukla & Ors. v. Union of India & Ors. (CAT, Allahabad Bench), in which relying on the ratio in the judgments of the Hon'ble Supreme Court

in U.P.State Road Transport Corporation & Anr. v. U.P. Parivahan Nigam Shishukhs Berozgar Sangh, 1995 (1) SCSLJ 276, and U.P.Rajya Vidyut Parishad Apprentice Welfare Association v. State of U.P. & Ors., JT 2000 (6) SC 227, it was held that appointments against Group 'C' and 'D' posts with the respondents should be made exclusively through trained apprentices.

4. The learned counsel of respondents stated that competent authority had granted permission to fill up 13 posts by direct recruitment from apprentices against a total number of 52 posts. The names of 12 candidates who appeared in the National Council of Vocational Training examination earlier were placed on the panel and since no ST candidate had applied for recruitment to the post, the post meant for ST candidate was left vacant. In the matter of U.P.State Road Transport Corporation (supra) the Apex Court made the following observations :

"10. For a promise to be enforceable, the same has, however, to be clear and unequivocal. We do not read any such promise in the aforesaid three documents and we, therefore hold that at the call of promissory estoppel, the direction in question could not have been given by the High Court. But then, we are left in no doubt that the Government of India did desire that preference should be given to the trained apprentices and it is because of this that the State Government stated in its letter No.735/38-16(T)-79 dt. 12-11-79 that where such apprentices are available, direct recruitment should not be made. Indeed, the Government of India in its letter dated 23-3-1983 even desired reservation of 50 percent vacancies for apprentice trainees.

11. The aforesaid being the position, it would be just and proper to go merely by what has been stated in Section 22(1) of the Act, or for that matter, in the model contract form. What is indeed required is to see that the nation gets the benefit of time, money and energy spent on the trainees, which would be so

W

when they are employed in preference to non-trained direct recruits. This would also meet the legitimate expectations of the trainees."

In the above background, the Hon'ble Supreme Court laid down the following guidelines for dealing with the claim of trainees to get employment after successful completion of their training :

- "(1) Other things being equal, a trained apprentice should be given preference over direct recruits.
- (2) For this, a trainee would not be required to get his name sponsored by any employment exchange. The decision of this Court in Union of India v. Hargopal, AIR 1987 SC 1227, would permit this.
- (3) If age bar would come in the way of the trainee, the same would be relaxed in accordance with what is stated in this regard, if any, in the concerned service rule. If the service rule be silent on this aspect, relaxation to the extent of the period for which the apprentice had undergone training would be given.
- (4) The concerned training institute would maintain a list of the persons trained year wise. The persons trained earlier would be treated as senior to the persons trained later. In between the trained apprentices, preference shall be given to those who are senior."

5. To a pointed query how the seniority among the trained apprentices is maintained by respondents, the learned counsel admitted that it is establishment-wise and not on all India basis. He drew our attention to Railway Board's instructions dated 16.9.1996 (Annexure RR-2) in this regard. The relevant portion of the instructions is extracted below :

11

"2. The matter has been carefully considered by the Board and it has been decided that on recruitment to Group 'D' posts, other things being equal, a candidate who is a Course Completed Act Apprentice trained in the relevant trade in the Railway establishment will be given preference over a candidate who is not such an apprentice. This may be made applicable to such categories of group 'D' posts in which apprenticeship pass under Apprenticeship Act in relevant trade is a prescribed qualification.

3. In other words, while there will be no change in the procedure of recruitment and the selection for recruitment will be in accordance with the merits of the eligible candidate, where other things are equal between two candidates, the candidate who is a Course Completed Act Apprentice trained in Railway Establishment will be given preference over the candidate who is not such an apprentice."

6. In view of the ratio in the matter of U.P.State Road Transport Corporation (supra) followed by this Tribunal in the case of Praveen Kumar Shukla (supra), this OA is disposed of with the following directions :

- (1) The respondents are directed to maintain an establishment-wise list of the trained apprentices according to their seniority in merit and batch.
- (2) The appointments whether casual/substitute or regular shall be made strictly in accordance with the seniority in the list so maintained. In case any trained apprentice even after giving an opportunity does not come, then notice shall be given to the next candidate.
- (3) The appointment against casual/substitute shall be made exclusively through trained apprentices until the list is exhausted.

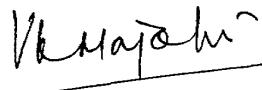
11

(4) So far as the regular appointments including regularisation are concerned, appointment shall be made strictly in accordance with the guidelines provided by the Hon'ble Supreme Court in the cases of **U.P. State Road Transport Corporation (supra)** and **U.P. Rajya Vidyut Parishad Apprentice Welfare Association (supra)**.

(5) Respondents shall consider cases of applicants for appointment against the vacancies in skilled/unskilled categories with respondent No.2 as and when vacancies are available on the basis of the directions (1) to (4) above.

No costs.


(Kuldip Singh)
Member (J)


(V. K. Majotra)
Member (A)

/as/