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Central Administrative Tribunal
Principal Bench

O.A.860/99

New Delhi this the 8th day of February, 2001

Hon'ble Smt. Lakshmi Swaminathan, Vice Chairman(J).

Hon'ble Shri Govindan S. Tamai, Member(A).

1. Sukh Dev Sharma s/o Shri Parmanand	Pump Engine Driver Gr.I	under Sr. SEN/C&W Northern Railway New Delhi
2. Pritam Singh s/o Shri Chandan Singh	P.E.D. Gr.II	-do-
3. Ramesh Chand s/o Sh. Banwari Lal	P.E.D. Gr.II	-do-
4. Hansila Parsad s/o Ramadhar	P.E.D. Gr.II	-do-
5. Chand Prakash s/o Jaswant Ram	P.E.D.	C.P.O. Hazarat Nizamudin New Delhi
6. Kanti Parsad s/o Shri Tikka Ram	P.E.D.	-do-
7. Dambar Singh s/o Shri Gulab Singh	P.E.D.	-do-
8. Harbans Lal s/o late Sh Tara Chand	P.E.D.	C.D.O. N.Rly, New Delhi
9. Ashok Kumar s/o Sh. Sardar Chand	P.E.D.	C.D.O. Hazarat Nizamuddin New Delhi
10. Mahipal Singh s/o Shri Harbans Singh	P.E.D.	-do-

11.	Bhara Singh s/o Shri Krishan Singh	P.E.D. Gr.II	under SSC N.Rly Panipat
12.	Balbir Singh s/o Prabhu Dayal	P.E.D. Gr.II	SSE/C&W New Delhi
13.	Gulshan Kumar s/o Shri Dewan Chand	H.S. PED	SSE/C&W N.Rly New Delhi
14.	Rajpal s/o Shri Bhagwan Singh	P.E.D. Gr. III	SSE, N.Rly Delhi
15.	Hussain s/o Shri Mohd. Ali	H.S. PED	SSE(C&W) Delhi
16.	Om Parkash s/o Shri Ram Parshad	P.E.D. Gr. III	SSE N.Rly Ghaziabad
17.	Jagender Kumar s/o Shri Khem Chand	P.E.D. Gr. II	SSE C&W Shakurbasti Delhi
18.	Bawat Swaroop s/o Shri Gouri Shanker	P.E.D.	SSE Nlry Ghaziabad
19.	Arun Kumar s/o Shri Sunder Das	P.E.D. SARANGW	-do-
20.	Rajinder Kumar s/o Shri Balu Ram	PED	SSE, N.Rly New Delhi
21.	Kameshwar s/o Shri Ratan Lal	P.E.D.	SSE C&W N.Rly Tughlakabad New Delhi
22.	Narendar Kumar s/o Shri Hakam Chand	P.E.D. Gr.II	-do-

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<u>Sl. No.</u>	<u>Name & Father's Name</u>	<u>Designation</u>	<u>Address</u>
23.	Ashok Kumar	P. E. D. Gr. II	SSE, N.Rly Meerut
24.	Mohan Lal s/o Shri T.D. Ram	P. E. D. Gr. III	SSE C&W Tughlakabad New Delhi
25.	Bhoopal Singh s/o Ramchander Singh	S&E P. E. D.	SSE (C.W. Ghaziabad
26.	Rishipal Singh	P. E. D.	SSE C&W New Delhi
27.	Jagmohan Lal s/o Shri Ram Chand	P. E. D.	SSE C&W Tughlakabad New Delhi
28.	Isam Singh s/o Shri Mukandi	P. E. D.	SSE &C.W Tughlakabad New Delhi
29.	Vijaypal Singh s/o Shri Shanu Ram	P. E. D.	-do-

(By Advocate Shri B.S. Mainee)

... Applicants

versus

Union of India : Through

1. The General Manager
Northern Railway
Baroda House
New Delhi
2. The Divisional Railway Manager
Northern Railway
New Delhi

Respondents.

(By Advocate Shri P.M. Ahlawat)

O R D E R

Hon'ble Smt. Lakshmi Swaminathan, Vice Chairman(J).

This application has been filed by 29 persons who are aggrieved by the action taken by the respondents in issuing the order dated 20.2.1999. By this order, it is stated that the competent authority has decided with the concurrence of both the recognised Unions that certain categories of Mechanical (C&W) Department are merged as shown against each of those categories. The applicants belong to the category mentioned at Serial No. 7, namely, Pump Enginer Driver, who have been merged in the cadre of Technician (C&W).

2. Shri B.S. Maine, learned counsel has submitted that the applicants who were appointed on the Railways in Group 'D' post were eligible for promotion to the post of Artisans in accordance with the rules. He has further submitted that in the category of Artisans, they could be promoted as Fitters, Masons, Carpenters, Turners, Pump Engine Drivers, etc. Admittedly, all the applicants are Pump Engine Drivers. As Artisans, they have three grades, namely, Grades-I, II and III. The learned counsel has contended that the applicants can be promoted only in their channel of promotion as Pump Engine Driver Grade-II and thereafter Grade-I and they cannot be encadred or merged with any other category, namely, Technicians (C&W). He has further submitted that the impugned order has not been passed with the consent of the competent authority, namely, the Railway Board or the General Manager and it has been passed only by the Divisional Personnel Officer. Further, he has submitted that this has been done only in the case of the Delhi Division and not for other

Divisions. For these reasons, he has submitted that the impugned order is not valid and has prayed that the same may be quashed and set aside.

3. The Tribunal by order dated 19.4.1999 had stayed the operation of the impugned order dated 20.2.1999 which has been continued from time to time.

4. Shri P.M. Ahlawat, learned counsel for the respondents has submitted that the decision for merger has been taken by the competent authority with the consent of the two recognised Unions. By Tribunal's order dated 11.1.2001, the respondents were directed to bring on record "the relevant rules showing who is the competent authority in the instant case along with the relevant file in which a decision has been taken by that authority to merge the cadre of Pump Engine Drivers, to which category the applicants belong, to that of Technicians (C&W). When the case was taken up for hearing, Shri P.M. Ahlawat, learned counsel has submitted that he has not been able to bring the relevant records on this point. He has, however, submitted one file of DRM's Office, New Delhi bearing No. 807E/WSR/C&W/CPI-MPP on which he has relied upon. He has referred to the sanction of the proposal to merge the isolated categories of Mechanical, in the category of Fitter (C&W) by D.R.M vide his Note dated 15.2.1999 after which the impugned order dated 20.2.1999 has been issued.

5. On consideration of the reply of the respondents and perusal of the aforesaid file submitted by them, we are not satisfied that the impugned order has been passed by the competent authority. They have failed

to bring on record the relevant rules to controvert the submissions made by the learned counsel for the applicant that it is only the Railway Board and the General Manager who have powers to merge various categories. Therefore, in the facts and circumstances of the case, we are not satisfied with the contentions of the respondents that the decision in this case to merge the category of Pump Engine Drivers with Technicians has been taken at the appropriate level, that is by the competent authority in accordance with the relevant rules. As sufficient time had also been granted to the respondents to produce the Rules which they have not done, it was not considered necessary to further extend the time as submitted by Shri P.M. Ahlawat, learned counsel. We, however, are not doubting the power of the Government to take appropriate decisions regarding merging or creation of cadres or any other similar actions but in this case the main issue was whether the merger of the cadre has been done with the approval of the competent authority. Further, the respondents have also failed to explain satisfactorily as to why the impugned decision has been taken only in respect of the Delhi Division and not in other Divisions.

6. In the result, for the reasons given above, the O.A. succeeds and is allowed and the impugned order dated 20.2.1999 is quashed and set aside. No order as to costs.

(Govindan S. Tampi)
Member(A)

SRD

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