

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

O.A. No. 590/98

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New Delhi this the 12th Day of February 1999

Hon'ble Shri R.K. Ahooja, Member (A)

1. Shri Cheddi,
S/o Shri Sattoo,
 2. Shri Ramdev Roy
S/o Shri Ramsewak Roy
 3. Sita Ram
S/o Shri Ram Pratap
 4. Shri Sona Lal
S/o Shri Roop Lal
 5. Shri Damodar Roy
C/o Shri Challitar Roy
 6. Shri Ram Chander Roy
S/o Shri Balihari Roy
 7. Shri Narayan
S/o Shri Bhagllu
 8. Shri Muneshwar Roy
S/o Shri Pulkit Roy
 9. Shri Vinod Singh
S/o Shri Amrit Singh
 10. Shri Bindeswar
S/o Shri Ramvaran Roy
 11. Shri Dhannu Roy
S/o Shri Faken Roy
 12. Shri Muneshwar
S/o Shri Nuza
- Applicant

(By Advocate: Shri B.S. Mainee)

-Versus-

Union of India : Through

1. The Secretary,
Railway Board,
Ministry of Railway,
Rail Bhavan,
New Delhi.
2. The General Manager,
North Eastern Railway,
Gorakhpur. 3.
The Divisional Railway Manager,
North Eastern Railway,
Samastipur.

Pls

List
or

4. The Chief Workshop Manager,
North Eastern Railway,
Gorakhpur.

Respondents

(By Advocate: Shri P.S. Mahendru)

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The applicants' names were included in a panel in 1981 as casual labourers screened for absorption against regular vacancies under the Divisional Railway Manager, North Eastern Railway, Samastipur, Respondent No. 3. Their grievance is that while some of their juniors have been absorbed, the applicants have not been given appointment.

2. The respondents have denied the above allegation. They submit that no one junior to the applicants in the panel has been given appointment under Respondent No. 3. They further submit that applicants have a right for consideration for appointment only in the Division in which they have been screened and empanelled. However, on a requisition being received from Respondent No. 4, the Chief Workshop Manager, North Eastern Railway, Gorakhpur, a list of certain screened casual labourers was sent for his consideration. The respondent No. 4, however, decided that only those who were under the age of 40 would be considered with the result that the applicants who had exceeded this age were not given appointment.

3.. Shri B.S. Mainee, appearing for the applicants admitted that ordinarily the applicants would have the right to be considered for vacancies only under Respondent No. 3. He argued, however,

that once the names had been forwarded to Respondent No. 4, the Respondent No. 4 was also under an obligation to consider ~~the~~ the names in accordance with the rules and instructions of Respondent No. 1 Viz., the Railway Board. The Respondent No. 3 as well as Respondent No. 4 were both under Respondent No. 2 i.e., General Manager, North Eastern Railway, Gorakhpur. Vide Annexure A-9, it had been brought to the notice of Chief Personnel Officer of North Eastern Railway that the age limit was applicable only in respect of direct recruits; the particular rule applicable in respect of casual labour waiting to be absorbed was to be found in IREM, Vol. II, Para 2006(3) and also Master Circular No. 20. As provided therein, if the casual labour was recruited initially within the age limit, then further age relaxation should be automatic at the time of actual absorption. Shri B.S. Mainee relied on the orders of this Tribunal in O.A.No. 240/90, Patna Bench (Copy at Annexure A-10) wherein the Tribunal directed with regard to the panel in question that the appointments will be considered in turn in accordance with the seniority assigned to them in the said large sized panel. He further cited AIR 1984 SC 1831, Prem Parkash Vs. Union of India and ors., in which it was held that granting justice to one group at the expense of injustice to another is a perpetuation of injustice in some form or the other. The learned counsel submitted that the appointment of juniors by Respondent No. 4 on the basis of a wrong

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interpretation of rules was patently a case of discrimination violative of Articles 14 and 16 of the Constitution of India.

(15)

4. Having considered the matter carefully, I am unable to agree with the submissions of the learned counsel for the applicants. The applicants had admittedly only a right to be considered for appointment against vacancies available under Respondent No. 3. The names of the applicant as well as others were forwarded to Respondent No. 4 for consideration. Respondent No. 4 while considering the available names decided to impose a ceiling in respect of the maximum age. So long as this ceiling was applied on an uniform basis, across the board, there could be no question of discrimination. For vacancies under Respondent No. 3, the applicants could be considered to be casual labours awaiting absorption in terms of Para 2006(3) of IREM Vo. II. However, in regard to appointment under Respondent No. 4, they could not be entirely so regarded. The Respondent No. 4 was, therefore, within his rights to apply the criteria of direct recruitment in regard to the panel of names obtained by him from Respondent No. 3. As the applicants had no right for absorption in vacancies under Respondent No. 4, they could not claim that the provisions of only railway instructions in regard to absorption of casual labour should be applied to them and not those applicable to direct recruits. The position would have been different in

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respect of vacancies under Respondent No. 3. Here it has not been disputed that no one junior to the applicants has so far been given regular appointments.

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In the light of the above discussion, the O.A. is dismissed. No order as to costs.

R. K. Ahooja
(R.K. Ahooja)
Member (A)

Mittal