

(17)

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. NO. 1207/1995

New Delhi this the 2nd day of September, 1999.

HON'BLE SHRI R. K. AHOOJA, MEMBER (A)
HON'BLE SHRI SYED KHALID IDRIS NAQVI, MEMBER (J)

1. Mukhtar Chand S/O Sardara Ram,
R/O 257/5-B, Riy. Flats,
Panchkuian Road,
New Delhi-110001.
2. R. K. Aneja S/O H. L. Aneja,
SSTE/R&D, Baroda House,
New Delhi-110001.
3. P. P. Goel S/O Ved Prakash Goel,
R/O 75-C, Nawab Yusuf Road,
Allahabad.
4. Brameshwar Ram S/O Ram Sigasan Ram,
R/O 1056/1, Lal Bagh Colony,
Allahabad.
5. P. Ramachandran S/O T.P. Raman,
R/O 257/6-B Riy. Flats,
Panchkuian Road,
New Delhi.
6. J. P. Mehta S/O Shankar Das Mehta,
R/O 257/5A, Railway Flats,
Panchkuian Road,
New Delhi. Applicants

(By Shri D. R. Roay, Advocate)

-Versus-

1. Union of India through
Secretary, Ministry of Railways,
Rail Bhawan,
New Delhi.
2. General Manager,
Northern Railway,
Baroda House, New Delhi.
3. General Manager,
Railway Electrification (CORE),
Allahabad.
4. The Secretary, UPSC,
Dholpur House,
Shahjahan Road,
New Delhi. Respondents

(By Shri R. L. Dhawan, Advocate)

S. L. Dhawan

O R D E R

Shri Syed Khalid Idris Naqvi, JM :

Vide notification No.E(CP)92/1/55 dated 15.9.1992 by the Government of India, Ministry of Railways, the 127 Group 'B' officers of S&T Department of the Indian Railways have been promoted to junior scale of IRSEE w.e.f. 23.7.1992. This list of promoted is neither to the satisfaction of promotees nor to that of direct recruits to the post. The officers who have been empanelled in this list have come up with this O.A. under Section 19 of the Administrative Tribunals Act, 1985 and assailed the list mainly on following grounds :

- (i) Non-indication of the year of vacancy against which the applicants have been promoted as per Railway Board letter dated 15.9.1992.
- (ii) Abnormal delay in appointment of the applicants in Group 'A' services of the Indian Railways Service of Signal Engineers (IRSSE) by not holding meetings of the Departmental Promotion Committee regularly every year for filling up the vacancies of particular years.
- (iii) Promotion already made and also contemplated by the respondents of direct recruits of the year 1985/1986 to the Senior Time Scale and Junior Administrative Grade to the detriment of the applicants by ignoring their legitimate and

See-

✓
rightful claims by not fixing their seniority correctly under the rules/regulations/orders on the subject.

On these grounds the applicants have sought for following relief :

- I. The respondents be directed to indicate the years of vacancies against which the applicants have been promoted vide Railway Board letter E(CP)/92/1/55 dated 15.9.92 and appoint them in Gp 'A' (J.T.S.) against the year of vacancies allocable to him as already done in the case of Sh. R.K.Gupta vide Railway Board orders dated 27.5.95.
- II. The respondents be also directed to fix the seniority of the applicants by granting them due weightage in accordance with Railway Board's letter dated 30.11.76, as amended from time to time and to place their names in the respective years vis-a-vis the direct recruits of that year.
- III. The respondents be further directed to prepare a seniority list of the respective years of recruitment showing the names of the applicants correctly alongwith the names of direct recruits of the particular years in J.T.S. (Gp A) and promote them to S.T.S. (Gp A) on regular basis with full consequential benefits.
- IV. The respondents be further directed to consider the applicants for promotion to the applicants to S.T. scale posts and the next higher post of Junior Administrative grade after determining their seniority correctly in accordance with the rules, regulations and administrative instructions.
- V. The applicants be granted arrears of pay and allowances due to them on their promotion as a result of allocation of proper year of appointment and application of weightage formula.
- VI. The applicants be awarded interest @ 24% per annum on the arrears of pay and allowances admissible to them."

See ~

2. On the other hand, the directly recruited to the junior scale of Rs.2200-4000 of Group 'A' service of the Indian Railway Service of Signal Engineers (IRSSE) are also aggrieved with this notification and had filed O.A. No.574/93, Anil Kumar Singhal & Ors. v. Union of India & Ors. In that O.A., the applicants were aggrieved by the notification dated 15.9.1992 appointing substantively 127 Group 'B' officers of S&T Deparment to the junior scale of IRSSE w.e.f. 23.7.1992, mainly on the ground that it was contrary to the recruitment rules and that these appointees were likely to be given weightage in seniority in the Junior Time Scale up to a maximum of five years as a result of which they were likely to be placed over the applicants thus defeating their rightful claim of further promotion.

3. In O.A. No.574/93 the position has been intensively thrashed with reference to all the relevant notifications, rules and the law handed down by different courts. That O.A. has been decided by this Tribunal on 4.8.1995. The points raised in the present O.A. have been answered in O.A. No. 574/93 with the following directions :

"(i) It is not competent for the Railways to appoint as many as persons by promotions as they like in disregard of the provisions of Rule 4 which stipulates the quota for promotion and direct recruitment. Repeated violent departures from the quota rule will lead to collapse of the quota rule (Direct Recruit's case - supra) and therefore of the linked seniority rule (B.S. Gupta's case - supra).

(ii) The principle of weightage in seniority will be limited to promotees appointed against their quota.

Skew

(iii) As the rules stand at present, the maximum quota for promotees is only 40%. It cannot be raised further by relaxation as Government has no such power.

(iv) Vacancies not filled in a year - whether in the direct recruitment quota or promotee quota - can be carried over, but all such vacancies have to be filled in the subsequent years by both methods on the basis of the quota mentioned in Rule 4.

(v) Out of the 127 appointments made by the Annexure A-1 order dated 15.9.1992, promotion should be deemed to have been made to the extent of 40% of the vacancies in 1992 which have been computed tentatively at 89 (para 34 supra) subject to departmental verification. They alone are entitled to weightage and seniority on the seniority principles (vii) and (ix).

(vi) The remaining 38 persons, subject to departmental verification, have been promoted in excess of the promotion quota and they are not entitled to weightage in seniority on the basis of the Annexure A-1 order. Their promotion shall be treated as ad hoc only. They can be treated as regularly promoted against the quota for promotees in 1993 and thereafter. In that case, such promotees can be given weightage from the dates their promotions are regularised.

(vii) The Annexure A-1 order shall stand modified to the extent indicated above."

4. It is to be mentioned that Annexure A-1 to O.A. No. 574/93 is the same as Annexure A-1 to the present O.A.

5. With the position as it stands, we do not find it necessary to repeat the position again, and the present O.A. is disposed of in terms of declaration, orders and directions in O.A. No. 574/93, as reproduced hereinabove. No costs.

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

Syed Khalid Idris Naqvi
(Syed Khalid Idris Naqvi)
Member (J)