

32

CENTRAL ADMINISTRATIVE TRIBUNAL PRINCIPAL BENCH

OA No. 2051/95

New Delhi: this the 2nd day of JUNE, 2000.

HON'BLE MR. S.R. ADIGE, VICE CHAIRMAN (A).

HON'BLE MR. KULDIP SINGH, MEMBER (J)

Shri B.R. Malhotra,
S/o Shri G.L. Malhotra,

Assistant,

under the Ministry of Railways,
Rail Bhawan,
New Delhi

& 5 others as per Memo of parties Applicants.
(By Advocate: Shri B.S. Maini)

Versus

Union of India
through
the Secretary,
Ministry of Railways,
Railway Board,
Rail Bhawan,
New Delhi.

2. The Secretary,
Union Public Service Commission,
Dholpur House,
New Delhi. Respondents.

(By Advocate: Shri P.S. Mahendru)

ORDER

HON. MR. S.R. ADIGE, VC (A)

Applicants impugn respondents' order dated 24.7.89 (Annexure-A1); order dated 2.6.95 (Annexure-A2) and order dated 28.9.95 (Annexure-A3). They seek a direction to respondents to fill up the 6 unfilled vacancies of 1992 LDCE quota from LDCE quota of 1993 to be adjusted against Minority quota of 1993 by promoting them against these vacancies and grant them consequential benefits.

2. Admittedly applicants ~~had~~ joined service in Railway Board as LDCEs and were promoted as UDCs. The next post to which applicants are eligible for promotion

(33)

is to the post of Section Officer which is a Group 'B' gazetted post and which is filled up as per relevant RRs thus

- 1) 20% by direct recruitment through UPSC;
- 2) 40% by promotion in order of seniority subject to rejection of the unfit from the lower posts of Asstts.
- 3) 40% by way of LDCE through UPSC.

3. In 1989 the RRs were amended such that in case adequate number of officers were not available in either (2) or (3) above, the shortfall could be made good by increasing the intake in equal number through the alternative clause at (2) and (3) above.

4. Admittedly, for the year 1992, 40 vacancies were available, 20 to be filled under (2) and 20 under (3) above. For the vacancies under (3) above, 3 vacancies were reserved for SC and 1 for ST. In addition there was a backlog of 1 SC and 3 ST vacancies from previous years. Thus 4 vacancies for SC and 4 vacancies for ST were earmarked for reservation. However, UPSC who conducted the LDCE could supply only 14 candidates (10 unreserved and 4 SC). The unfilled 4 ST vacancies were carried forward to LDCE, 1993.

5. Meanwhile as UPSC could supply only 14 candidates for LDCE, 1992, the shortfall of 6 candidates was filled from (2) above.

6. For 1993, 32 vacancies were available to be filled up equally under (2) and (3) above. In the 16 vacancies to be filled up through (3) above, 3 were reserved for SC and 1 for ST with a backlog of 4 reserved vacancies (all of ST) carried forward from

2

(34)

1992, UPSC was requested to supply 8 general, 3 SC and 5 ST candidates, i.e. 16 in all. UPSC could however supply only 12 candidates (8 General, 3 SC and 1 ST). The shortfall of 4 candidates was to be diverted to (2) above.

7. Respondents state that though the shortfall related to S.T. category, general candidates from LDCE, 1993 were available and UPSC was requested to nominate 4 candidates (3 General & by dereservation 1 ST) out of LDCE, 1993, but UPSC did not agree to give 3 General candidates. They however agreed to supply 1 SC candidate for consideration against the ST vacancy.

8. During hearing applicants' counsel Shri Maini invited attention to respondents' letter dated 3.10.97 (Annexure-C). In that letter it had been stated keeping in view the rule position, it had been decided that the shortfall vacancies against LDCE 1992, 1993 and 1994 should be diverted to seniority stream as open vacancies i.e. reservation against those vacancies were to be taken care of as per 40 point Roster meant for seniority stream. Therefore the reservation points pertaining to the shortfall of vacancies of a particular year of LDCE have been carried forward to the next year's LDCE till LDCE 1994. Subsequently, in February, 1996 the interpretation of the concept of diversion of shortfall vacancies was considered in detail and it was decided that the 3 shortfall vacancies of LDCE, 1994 pertaining to ST points should be diverted to seniority stream along with the ST points. Accordingly there would be no carry forward of ST points from LDCE 1994 to LDCE 1995. However, this decision

7

would not be feasible to implement in past cases since the matter relating to past cases was subjudice in the context of the present OA.

9. Shri Mainee prayed that this decision contained in respondents' aforesaid letter dated 3.10.97 be made applicable in the present case also.

10. We have considered the matter carefully.

11. As the only reason given by respondents in their aforesaid letter dated 3.10.97 why they are not implementing the aforesaid decision in past cases like the one before us is the pendency of the present OA, we dispose of the same with a direction to respondents to consider the applicability of the decision contained in letter dated 3.10.97 to the case before us in accordance with rules and instructions by means of a detailed speaking and reasoned order under intimation to applicants. In the event that consequent to the application of that decision, applicants are promoted, they shall be entitled to consequential benefits in accordance with rules and instructions. These directions should be implemented as expeditiously as possible and preferably within 4 months from the date of receipt of a copy of this order.

12. The OA is disposed of in terms of para 11 above. No costs.

Kinder
(KULDIP SINGH)

MEMBER (J)

Arfalg
(S.R. ADIGE)
VICE CHAIRMAN (A).

/ug/