

CENTRAL ADMINISTRATIVE TRIBUNAL  
Principal Bench

New Delhi, dated this the 30<sup>th</sup> MAY 1997

HON'BLE MR. S.R. ADIGE, MEMBER (A)  
HON'BLE DR. A. VEDAVALLI, MEMBER (J)

O.A. No. 2744 of 1991

Shri Ashok Kumar,  
S/o Shri K.P. Singh,  
Quarter No. 5/55 EMU Car Shed,  
Railway Colony,  
Lal Kuan,  
G.T. Road,  
Ghaziabad, U.P.

... APPLICANT

By Advocate: Shri G.D. Bhandari

VERSUS

1. Union of India through  
the General Manager,  
Northern Railway,  
Baroda House,  
New Delhi.

2. The Divl. Rly. Manager,  
Northern Railway,  
State Entry Road,  
New Delhi.

.. RESPONDENTS

By Advocate: Shri R.L. Chawan

O.A. No. 285 of 1995

1. Shri Sri Ram,  
S/o Shri Ganga Prasad,  
R/o H-116, Old Vijay Nagar,  
Ghaziabad.

2. Shri Jaswant Singh,  
S/o Shri Kesav Dev Singh,  
R/o 5/6, EMU Colony,  
Ghaziabad.

3. Shri Vinod Kumar,  
S/o Shri Gurdyal,  
R/o 1510, Shiv Puri,  
Ghaziabad.

4. Shri Narendra Kumar Tomar,  
S/o Shri Bhagirath Singh,  
R/o EMU Colony,  
Ghaziabad.

5. Shri Ram Muhti Yadav,  
S/o Shri R.D. Yadav,  
R/o 1/2, EMU Colony,  
Ghaziabad.

... APPLICANTS

By Advocate: Shri G.D. Bhandari

VIFSSUS

1. Union of India through the General Manager, Northern Railway, Baroda House, New Delhi.
2. The Divl. Rly. Manager, Northern Railway, New Delhi.
3. Sr. Divl. Elect. Engineer, Northern Railway, EMU Car Shed, Ghaziabad.

.... RESPONDENTS

By Advocate: Shri K.K.Patel

J U D G M E N T

BY HON'BLE MR. S.R. ADIGE, MEMBER (A)

As these two O.As involve common question of law and fact they are being disposed of by this common order.

O.A. No. 2744 of 1991

2. Applicant impugns respondents ~~order~~ order dated 24.10.91 (Ann. A-1) regarding ~~provisional panel~~ ~~selections~~ for the post of Elec. Chargeman (Rs.1400-2300) against 25% intermediate quota.

3. Admittedly applicant appeared in the said selections and secured a total of 63 marks including 54 marks for written test and viva-voce, and 9 marks for seniority. Total marks secured by those senior to applicant as contained in the departmental records which we perused was as follows:

2

Sl. No.	Name	Marks obtained in written test/ viva voce	Marks obtained for seniority	Total Marks
1.	Om PalSingh (SC)	52	15	67
2.	Jai Sri Ram Arya (SC)	54	14	68
3.	T.P. Sharma	52	13	65
4.	Pramod Kumar	50	12	62
5.	N.K. Gupta	52	11	63
6.	R.D. Vidyarthi	50	10	60
7.	Ashok Kumar (applicant)	54	9	63

4. As per relevant rules in IREM Vol. I  
including Rule 219(g)(4) of IREM Vol. I, read with  
respondents letter dated 26.11.86 only those  
who secure 60% marks in aggregate would  
qualify for empanelment and the panel has to  
be drawn up on basis of seniority from  
amongst those who qualify. However, all  
candidates who secure above 80% marks are to  
be treated as outstanding and placed on top  
of the panel without restriction but  
maintaining inter se seniority amongst  
themselves.

5. As there were four vacancies and none  
secured over 80% marks, respondents  
empanelled the four senior most persons, and  
as applicant was at Sl. No. 7 in order of  
seniority he was not empanelled.

N

6. Shri Bhandari has contended that ascribing marks for seniority by giving 15 marks to the senior most and so on and then preparing the panel seniority-wise, gives a premium to seniority, despite promotion being on the basis of selections through merit. However, neither the specific Rules in IREM <sup>and Rule 219(j)</sup> Vol.I including Rules 219 (g)(1) <sub>IREM Vol.I,</sub> on the basis of which marks are to be ~~assigned~~ <sup>assigned</sup> including marks for seniority, nor indeed respondents letter dated 26.11.86 has been impugned, in accordance with which the impugned panel was prepared.

7. Applicant has also challenged the inclusion of Pramod Kumar in the selection as at the relevant time he was a Fitter but a Painter. Respondents have stated in reply that at the relevant time of selection Shri Pramod Kumar who was a painter Gr. I and was then in an Ancillary category, was also eligible for selection and support has been sought from respondents letter dated 10/17.4.95, a copy of which is taken on record.

8. Under the circumstances no intervention is called for in regard to impugned order dated 24.10.91.

O.A. No. 285 of 1995

Applicants impugn respondents order dated 1.2.95 (Ann. A-1) whereby it has been stated that only General Fitter Artisans are eligible for promotion as Elec. Chargehands, against 25% quota, in respect of selections

scheduled in Feb. 95.

2. In this connection Shri Bhandari has argued that in the ~~earlier~~ <sup>earlier 12744/91,</sup> O.A. applicants had themselves contended that ancillary category artisans were also eligible to appear in the selections for promotion as Chargemen, and respondents could now not take the stand that promotions were confined to general fitter artisans alone, because, if so the stand of the respondents in the two OAs would be mutually contradictory.

3. The answer to this is provided in respondents letter dated 10/17.4.95 itself. Its perusal clarifies that the "dispensation" whereby Gr. I Artisans and Mistries other than those in the Fitter Trade were eligible for selection upto 31.12.93. This "dispensation" was not extended beyond 31.12.93 and under the circumstances when respondents issued their letter dated 1.2.95 this stand was legally correct that ancillary categories of artisans were ineligible to compete.

4. However, respondents appear to have given the matter further thought and by letter dated 10/17.4.95 decided to continue that "dispensation" subject to certain conditions.

5. However, the fact remain that at the time the selections were scheduled in Feb. 95 the "dispensation" in favour of Ancillary category artisans had come to an end w.e.f. 31.12.93, and had not yet been ordered to be continued

by respondents order dated 10/17.4.95. The question whether or not to extend a particular benefit to a group of employees is entirely a matter of policy and Courts/Tribunals are justifiably locate to intervene unless it is found that such a policy is illegal, arbitrary, discriminatory, or violative of Articles 14 & 16 of the Constitution. In the instant case none of those infirmities were visible in the ~~benefits~~ decision not to extend those benefits beyond 31.12.93, or indeed respondents subsequent decision dated 10/17.4.95 to continue that ~~dispensation~~.

6. It is unfortunate that the selections in which applicants were desirous of participating in, fell after 31.12.93 and before 10/17.4.95, but in the light of the foregoing analysis, it is not possible to grant any relief to applicants.

7. In the result both O.As are dismissed. No costs.

8. Copy of this judgment to be placed in both O.A. case records.

A. Vedavalli Appellate S. R. Adige  
(DR. A. VEDAVALLI) Member (J) (S.R. ADIGE)  
/GK/ Member (A)