

CENTRAL ADMINISTRATIVE TRIBUNAL
Principal Bench

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New Delhi, dated this the 26.5.1997

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

O.A. No. 661 of 1995

1. Shri Mahesh Chander,
S/o Shri Mohan Lal,
Head Clerk Loco Shed Delhi Sarai Rohilla,
R/o Rly. Qr. No.125-B, DCM Rly. Colony,
Delhi.
2. Shri Nardev Lal,
S/o Shri Bhagat Ram,
Head Clerk CDO Delhi Sarai Rohilla,
R/o House No. 3, Old Roshan Pura,
Najafgarh,
New Delhi-110043.
3. Shri Ranjit Singh,
S/o Shri Bahadur Singh,
R/o Qr. No.145-B, DCM Colony,
Railway Colony,
Kishanganj,
Delhi.

... APPLICANTS

By Advocate: Shri V.P. Sharma

VERSUS

1. Union of India through
the General Manager,
Northern Railway,
Baroda House,
New Delhi.
2. The Divl. Railway Manager,
Northern Railway,
Bikaner Division,
Bikaner.
3. The Sr. Divl. Personnel Officer,
Northern Railway,
Bikaner Division,
Bikaner.

... RESPONDENTS

By Advocate: Shri R.L. Dhawan.

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C.A. No. 838 of 1995

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1. Shri Rama Nand,
S/o Shri Dhani Ram,
Head Clerk in Loco Shed,
Rewari (Haryana)
2. Shri Gajender Singh,
S/o Shri Mata Din,
Head Clerk in Loco Shed,
Rewari (Haryana)
3. Shri Mani Ram,
S/o Shhri Pokh Rai,
Head Clerk in Locl shed,
Rewari, Haryana
4. Shri Mohan Lal,
S/o Shri Shiv Narayan,
Head Clerk in Locl Shed,
Rewari, Haryana
5. Shri Dass Sachdeva,
S/o Shri Sanu Ram Sachdeva,
Head Clerk,
Loco Shed,
Rewari, Haryana

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JUDGMENT

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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 with this common judgment.

2. Applicants in these two O.As before us, impugn respondents order dated 20.3.95 (Annexure A-1) calling them for written test/selection for the post of Asst. Supdt. (Rs.1600-2660), without locating vacancies of Asst. Supdt. from year to year basis w.e.f. 1987.

3. Admittedly the post of Asst. Supdt. is a selection post filled upon the basis of written test and interview, and applicants who are Head Clerks (Rs.1400-2300) in Mechanical Dept. constitute a feeder category for selection as Asst. Supdt. Admittedly in 1987, selection for 13 posts of Asst. Supdt. was held in which 7 persons who qualified were promoted. Admittedly also, after 1987 selections for vacancies of Asst. Sudpt. could not be finalised till 1992, which respondents ascribe to staff representations and administrative reasons.

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4. Consequent to cadre restructuring w.e.f. 1.3.93 Railway Board by letter dated 27.1.93 (Ann. R-1) directed that such vacancies which had not been finalised by

1.3.93 should be cancelled/abandoned, and vacancies as on 1.3.93 (excluding direct recruitment vacancies) including those which had arise owing to cadre restructuring should be filled by modified selection procedure after scrutinising service records/ACRs without holding any written/viva voce test as a one time exception. However, vacancies arising from 2.3.93 onwards, were to be filled by normal selection procedure.

5. Applicants could not be empanelled as Asst. Supdt. against available vacancies as on 1.3.93 including vacancies as a result of cadre restructuring/resultant vacancies owing to their low seniority position. As regards vacancies from 2.3.93 onwards, respondents in accordance with letter dated 27.1.93 were to follow the normal selection procedure, pursuant to which they have issued impugned letter dated 20.3.95 calling applicants and other eligible candidates for written test/interview for promotion to the selection post of Asst. Supdt.

6. We have heard applicants' counsel Shri V.P. Sharma and respondents' counsel Shri R.L.Dhawan.

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7. If applicants were aggrieved by the selections held in 1987 or by respondents not holding the selections between 1988 and 1992, they should have challenged respondents action in the prescribed manner at that time itself. Not having done so then, any challenge to the same through this O.A. which was filed on 6.4.95 is barred by limitation u/s 21 A.T. Act. By Railway Board's letter dated 27.1.93 all selections which had not been finalised as on 1.3.93 were to be cancelled/abandoned and vacancies available as on that date including vacancies which had arisen as a result of cadre restructuring as well as chain/resulting vacancies as on that date were to be filled by the modified selection procedure. Respondents have stated that applicants could not be empanelled for promotion against the available vacancies as on 1.3.93 because of their low seniority position position. That letter has not been impugned. During hearing applicants' counsel Shri Sharma contended that 43 vacancies of Asst. Supdt. were available on 1.1.93, while Shri Dhawan put the number of vacancies available on 1.3.93, the date on which all the available vacancies were to be filled by the modified selection procedure at 41, including 9 vacancies which arose out of restructuring. From the list dated 23.1.92 (Ann. A-7) of those who were called for an

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earlier selection which was to have been held in February, 1992 and which could not be finalised, it appears that applicants' position was Serial No.58 and 66 and no materials have been furnished by applicant to establish that persons junior to them were empanelled ~~against~~ against vacancies that became available on 1.3.93 and which were to be filled up by modified selection procedure, while applicants themselves were superceded. Vacancies which arise from 2.3.93 and onwards, were in terms of respondents letter dated 27.1.93 (which as stated above has not been impugned) to be filled by the normal selection procedure, viz. written/viva voce test and accordingly respondents have issued impugned letter dated 23.3.95 for filling up available vacancies of Asst. Supdt.

8. Under the circumstance, we see no illegality in respondents' action which warrants our judicial interference. The two O.As are dismissed. No costs.

9. Let a copy of this judgment be placed in each case record..

A. Vedavalli

(DR. A. VEDAVALLI)
Member (J)
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(S.R. ADIGE)
Member (A)