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CENTRAL ADMINISTRATIVE TRIBUNAL: PRINCIPAL BENCH

Original Application No. 458 of 1996

New Delhi, this the 12th day of January, 2000

HON'BLE MR.S.R. ADIGE, VICE CHAIRMAN(A)
HON'BLE MR.KULDIP SINGH, MEMBER(JUDL)

1. Navneet Kumar
s/o Shri Ramesh Chand
2. Ashok Kumar-VI
S/o Shri Baboo Ram
3. Amit Dhussa
S/o Shri R.N.Lal Dhussa
4. Nagendra Kumar Sharma
S/o Shri S.N. Sharma
5. Vinod Kumar Gupta
S/o Shri Jawahar Lal Gupta
6. M.C. Kaushin
S/o Shri Umesh Narayan Chand
7. Hemant Kumar Joshi
S/o Shri M.C. Joshi
8. Ramesh Chandra
S/o Shri Tilak Chandra
9. Satish Kumar Jha
S/o Shri B.N. Jha
10. Shashi Sekhar Prasad
S/o Shri P.N. Prasad
11. Malikhan Singh
S/o Shri Ramesh Chand
(all the above applicants are working as
Diesel Assistant, Northern Railway under
Locoforeman, Moradabad)
12. Manoj Kumar Singh
S/o Shri Mahashwar Singh
13. Anil Kumar Singh
S/o Shri Sidhashwar Singh
(the above applicants No.12 and 13 are working as
Diesel Assistant, Northern Railway under
Locoforeman, Roza)
14. Dharmendra Upadhyay
S/o Shri Jagdish Pd. Upadhyay
15. Bijendra Kumar
S/o Shri H.S. Singh
(the above applicants No.14 and 15 are working as
Diesel Assistant, Northern Railway under
Locoforeman, Moradabad)

16. Manoj Mehrotra
 S/o Shri H.R. Mehrotra
 (the above applicant is working as
 Diesel Assistant, Northern Railway under
 Locoforeman, Roza)

17. Vijayendra Jha
 S/o Shri Vidya Nand Jha
 (the above applicant is working as
 Diesel Assistant, Northern Railway under
 Locoforeman, RAC)

18. Pramod Singh Katiyar
 S/o Shri Harish Chandra Katiyar
 (the above applicant is working as
 Diesel Assistant, Northern Railway under
 Locoforeman, Roza)

19. Vinod Kumar Singh
 S/o Shri Ram Nath Singh
 (the above applicant is working as
 Diesel Assistant, Northern Railway under
 Locoforeman, RAC)

20. Kailash Chand
 S/o Shri Jeeraj Singh

21. Ramesh Chandra A
 S/o Shri Ram Bahal Arya ...Applicants
 (the above applicants No.20 and 21 are working as
 Diesel Assistant, Northern Railway under
 Locoforeman, Moradabad)

(By Advocate: Shri B.S. Mainee)

Versus

Union of India : Through

1. The Secretary, Ministry of Railways,
 Rail Bhawan, New Delhi.
2. The General Manager, Northern Railway
 Baroda House,
 New Delhi.
3. The Divisional Railway Manager,
 Northern Railway,
 Moradabad.

-RESPONDENTS

(By Advocate: Shri R.L. Dhawan).

O R D E R

By Hon'ble Mr. Kuldeep Singh, Member (J)

This is a joint Original Application filed by
 Navneet Kumar and 20 others assailing the sentence of Discharge
 issued by the office of the DRM Northern Railway

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Moradabad. The main grievances of the applicants is that in the seniority list their date of appointment has been shown as February, 1992 whereas their actual date of appointment and the date of having taken independent charge by the applicants was somewhere in the month of May, 1991, hence the same is liable to be quashed and corrected accordingly. As such, it is prayed that the DA be allowed and respondents be directed to assign correct and proper seniority to the applicants after completion of 1.1/2 years of training as was prescribed in respondent No.2's letter dated 13.1.1988 and after the expiry of which the applicants had also been given independent charge to work as Firemen Grade 'A'.

2. Facts in brief are that the applicants were appointed as Apprentice Fireman 'A' (Diesel) Assistants/Electrical Assistant Driver through Railway Recruitment Board, Allahabad and they were selected vide letters Annexure A-3 for the said posts. Annexure A-3 was issued on 1.8.1989. After the selections the applicants were supposed to undergo training and according to the Railway Board's circular dated 13.1.1988 as per Annexure A-4, the scheduled training programme was for 75 weeks and the schedule of training is given in Annexure A-4.

3. The applicants claim that after having undergone training for 75 weeks and after completing T-17 course at Zonal Training School, Chandausi, they were declared successful vide letter dated 18.4.1991, which is

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at Annexure A-5 and after the declaration of the results the applicants claim that the respondents started utilising their services as independent Fireman Grade 'A'

4. It is further pleaded that while the applicants were undergoing training, the respondents issued another circular vide Annexure A-6 dated 24.4.1990 vide which they had revised training programme and extended the period from 75 weeks (1.1/2 years) to 104 weeks (2 years).

5. The applicants grievance started with this circular because according to the department the applicants were to undergo training programme for 75 weeks and thereafter they were subjected to certain tests by AME/DME etc. and after finding suitable, they were to be given an appointment letter.

6. The applicants further allege that some of the Apprentices who were appointed on compassionate grounds, were sent for training during the period of February, 1989 to September, 1989 and they were given training only for 75 weeks and the applicants have been discriminated and in their case, the revised training programme is being applied and the respondents should not be allowed to apply the revised circular in the case of the applicants as it amounts to discrimination.

7. It is also pleaded that similar staff recruited by the Railway Recruitment Board Guwahati who were also deputed to join the training in the month of December, 1989 were given training only for 75 weeks and

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thereafter, they were appointed as Fireman Grade 'A' and in their case the circular of revised training programme was not applied. So on this ground, the applicant's case was assailed the seniority list and want that on the seniority list the date of appointment should be 20.05.2001 sometime in May, 1991.

8. The respondents contest the O.A. They state that while the applicants were undergoing training, a revised training schedule was issued by the Railway Board on 5.1.2000 (Annexure R-1) and the applicant's case governed by the same. As per the revised training schedule, those Apprentices who successfully complete the training can be absorbed as 1st Fireman/ Diesel Assistant only after qualifying in AME/DME test (emphasis supplied). Respondents therefore contend that during the period the applicants were undergoing training, the revised training schedule was received, and after the completion of their training, the applicants were subjected to test in AME/DME and it is only thereafter, that they could be appointed and accordingly they were appointed with Annexure R-2.

9. We have heard the learned counsel for the parties and have gone through the records

10. The contention of the learned counsel for the applicants is that after successful completion of training of 75 weeks and after the result was issued vide Annexure A-5, the services of the applicants for

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been utilised independently as Fireman Grade 'A', and it should therefore be taken that the (the applicants) were appointed somewhere in the month of May 1991. This contention of the learned counsel for the applicants has no merit because we have not been shown any appointment letter issued to the applicants after the alleged successful completion of 75 weeks training. If we compare the circular dated 13.1.1988 which provided a 75 weeks training schedule with the circular dated 5.1.1990 revising the schedule training programme to 164 weeks, we notice that Apprentices undergoing training could be sent to Zonal Training School, Chandausi at any time during phase 1 or during phase 2. So after undergoing training at Zonal Training School, Chandausi and qualifying the exam there, that does not mean that the applicants/Apprentices had completed the entire training programme. As the Apprentices could be sent to Zonal Training School, Chandausi in different batches for training and exam at different times during the schedule period, hence it is not necessary that immediately after the declaration of the result of the exam held at Zonal Training School, Chandausi, the Apprentices are to be given regular appointment.

11. The revised circular dated 5.1.1990 ~~which~~ ^{by} the Apprentices were to undergo a training for 164 weeks, has also a condition that the Apprentices after successful completion of training may be absorbed as Fireman /Diesel Assistant as per requirement. *l.b.*

Division. That shows that the appointment if any was to be given after successful completion of the training and this had to be authenticated by some document that the applicant/Apprentice had successfully completed the training and had been absorbed as 1st Fireman/Diesel Assistant or Electrical Assistant. Unless a positive letter appointing/absorbing the Apprentices as 1st Fireman/Diesel Assistant was issued, the applicants cannot claim that they had been absorbed on an imaginary date given by the applicants themselves.

12. We may further add that the applicants cannot claim even that the respondents could not have revised the training programme from 75 weeks to 104 weeks because it is for the authorities themselves to ^{✓ determine} ~~decide~~ what training is to be imparted to the Apprentices, as they have to work on Railway Engines and the schedule of revised training programme has been approved by the competent authorities keeping in view the needs of the Railway authorities.

13. According to the IREM Vol.1, Rule 302 deals with Rule 303 the seniority of the candidates who were sent for initial training, their seniority is to be considered after the completion of the training. Training can be said to be complete only when a candidate is found suitable after AME/DME test as per circular.

14. The counsel for the applicants has also taken the plea that similar situated persons who were given appointment by North Eastern Frontier Railway, were asked to undergo training for 75 weeks but in the case of the

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applicants the yardstick of 104 weeks cannot be applied. To our mind, this plea of the applicants has no merit because first of all they are not party to the present proceedings, so that they could explain as to how they were granted training for 75 weeks and not for 104 weeks. But the fact remains that while the applicants were undergoing training, their schedule for the training programme had been revised from 75 weeks to 104 weeks.

15. The applicants had also not been issued any appointment letter showing they had been appointed somewhere in May, 1991.

16. As regards the candidates mentioned in para 4.10 are concerned, all those candidates had gone to training during February, 1989 to September 1989 and 75 weeks had been completed before the issue of the revised training programme, which was issued on 24.4.1990 as per Annexure A-6 filed by the applicants themselves, whereas in the case of the applicants they were still undergoing training when the revised training programme came. So we are of the considered opinion that since the applicants were still undergoing training when the revised training programme had come into force, so they have to be governed by the training programme of 104 weeks. Besides that, the applicants have not been able to substantiate the claim that they had been appointed/absorbed as Fireman/Diesel Assistant by any document which may show that they were absorbed on May, 1991. So their claim of ante-dating their date of appointment in the sense of

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List is not substantiated and has not been proved.

17. In view of the above, we find that the O.A
has not merits and the same is dismissed. No cost's

Kuldeep
(Kuldip Singh)
Member(J)

S.R. Adige
(S.R. Adige)
Vice Chairman(A)

/Rakesh/