

(13)

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI
OA 1273/1997

New Delhi this the 25th day of May, 2000

Hon'ble Smt. Lakshmi Swaminathan, Member (J)
Hon'ble Shri H.O. Gupta, Member (A)

1. Sushil Kumar S/o K.S. Yadav
2. Bechan Ram S/o Somaryash
3. Anil Kumar Singh S/o K.K. Singh
4. Kaushlendra Singh S/o Vidya Ram
5. Narendra Singh Yadav S/o R.R. Singh Yadav
6. H.S. Shishodiya S/o D.S. Shishodiya
7. Tarak Nath Bera S/o Sh. D.C. Bera
8. Prem Chand Verma s/o C.L. Verma
9. Brij Bhoosan Agarwal s/o R.K. Agarwal
10. Naval Kishore s/o Mangli Ram
11. Kanak Kumar Mandal s/o D.C. Mandal
12. Ajay Singh s/o C.P. Singh
13. Vijay Kumar Raghav s/o G.S. Raghav
14. Ratan Singh Jayas s/o Dungar Singh
15. Rakesh Tomer s/o Mahendra Singh
16. Babu Ram s/o Jassu Singh
17. Afroz Ahmad s/o Iqrar Ahmad
18. Rambilas Gupta s/o R.J. Ram.
19. Raj Kumar Singh Rana s/o Shodan Singh
20. Sunil Kumar Srivastava s/o T.P. Srivastava
21. Umakant Das s/o S.C. Das.
22. Virendra Singh Negi s/o Shiv Raj Singh
23. Chandresh Kumar s/o S.D. Srivastava
24. Ajay Kumar s/o Late R.L. Garg
25. Abhay Suman s/o G.S. Rana
26. Bijuvarchese s/o M.J. Verghese
27. Sandeep Kumar Sharma s/o B.K. Sharma
28. Biswanath Halder s/o L.C. Halder
29. Sanwale Yadav s/o P.R. Yadav.
30. Shyam Singh s/o Phagunilal
31. Omeshwar Rao Sharma s/o B.P. Sharma
32. Ghanshayam Singh s/o Vikram Singh
33. Nandeshwar Mishra s/o R.L. Mishra
34. Ompal Singh s/o Jagveer Singh
35. Pramod Kumar s/o Jagdeesh Prasad
36. Manoj Kumar s/o V.K. Gupta
37. Amerjeet s/o Mahatam
38. Girdharilal s/o Fakir Chand
39. Anil Kumar s/o Shri M.L. Sharma
40. Nand Lal Verma s/o Ram Lalhan
41. Rasham Pal Singh s/o Jay Pal Singh
42. Rajesh Kumar Chaodhary s/o V.K. Sharma
43. Pramod Kumar Sharma s/o S.R. Sharma
44. Shashi Kapoor Pandey s/o Jagdish Pandey
45. Pradeep Kumar s/o Pyare Lal
46. Avnish Kumar Mishra s/o A.P. Mishra
47. Om Parkash s/o Late Baldev Prasad
48. Sunil Srivastava s/o R.N. Srivastava
49. Binod Kumar Singh s/o R.N. Singh
50. Abu Shama Ansari s/o Mhd. Haid Ansari

(14)

51. Navin Kumar Saxena s/o S.P. Saxena
52. Umesh Chandra Agnihotri s/o M.D. Agnihotri
53. Rajesh Kumar Srivastava s/o Y.K. Srivastava
54. Hemant Kumar Joshi s/o M.C. Joshi
55. Ghan Shyam Bakshi s/o B.P. Bakshi
56. Sanjay Kumar Ahuja s/o K.L. Ahuja
57. Sunil Kumar Gupta s/o Late Ved Prakash
58. Jay Prakash Singh s/o Late Bahari Singh
59. Rajesh Yadav s/o Inderpal Yadav
60. Dinesh Chandra s/o Maya Datt

(By Shri B.S. Mainee, Advocate)Applicants

Versus

1. Union of India through
The Secretary,
Ministry of Railways,
(Railway Board), Rail Bhawan,
Raisina Road,
New Delhi- 110 001.

2. The General Manager,
Northern Railway,
Baroda House,
New Delhi- 110 001.

3. The Divisional Railway Manager,
Northern Railway,
Moradabad (U.P.).

4. The General Manager,
Eastern Railway,
Fairlee Place,
Calcutta

....Respondents

(By Advocate Sh.R.L. Dhawan)

O R D E R (ORAL)

(Hon'ble Smt. Lakshmi Swaminathan, Member (J).

This application has been filed by sixty applicants who are Diploma holders claiming that the respondents have acted in a manner which is discriminatory against them by not considering their cases for selection/ promotion to Supervisory posts, as has been done by the General Manager (Eastern Railway).

2. The applicants were recruited against an advertisement issued by the Railway Recruitment Board(RRB) in 1991. They had been appointed in the Moradabad Division in July,

18

(15)

1991 as Diesel Assistant/Electric Drivers/Firemen Grade 'A'. They have stated that after their appointments, the respondents have reduced the minimum qualifications for appointment to the post of Diesel Assistant/Electric Drivers/Firemen Grade 'A' from Diploma ~~holders~~ to I.T.I. certificate. The main grievance of the applicants is that there is no appropriate channel of promotion for the Diploma holders who ~~were~~ recruited in the aforesaid posts. Shri B.S. Maine, learned counsel has submitted that in a similar situated group of employees working in the Eastern Railway, the General Manager(ER) had taken a sympathetic view of the matter wherein, for the persons holding higher qualification of Diploma and facing stagnation, some remedial action had been taken. Learned counsel has submitted that on the other hand, the General Manager(N.R) has not taken any sympathetic attitude in the case of the Diploma holders who are applicants in the present OA.

3. We have seen the reply and heard Shri R.L.Dhawan, learned counsel for the respondents. Learned counsel has drawn our attention to the letter issued on behalf of the General Manager (N.R) dated 22.10.1997(Annexure R-1). It is seen from this that ~~position~~ the/ as applicable to the present case has been done by the General Manager in respect of another OA 2384/96, wherein he had come to the conclusion after discussion that there was no justification under the Rules to agree with the request of these applicants who are similarly situated like the applicants in the present case. Learned counsel has submitted that there is no rule under which the Diploma holders can be promoted ~~to~~ the Supervisory capacity by relaxation of the Rules, as that would disturb the functioning of the Railways. He has also submitted that applicants/apply in the direct recruit quota for the higher job of Supervisory/ if they have ~~may~~ nature the requisite qualifications as laid down under the Recruitment Rules. He has, therefore, submitted that in view of the position, clarifications and the detailed order passed by the General Manager(NR) dated 22.10.1997, no such directions as prayed for by the applicants may be granted.

4. In the rejoinder, learned counsel for the applicants has

18.

submitted that R-1 has passed the order without application of mind, with which we cannot agree. They have more or less reiterated their averments made in the OA, namely, that the respondents have taken a discriminatory attitude towards the applicants which is violative of the provisions of Articles 14 and 16 of the Constitution.

5. We have carefully considered the pleadings and the submissions made by the learned counsel for the parties.

6. Para (iii) of the letter dated 22.10.97 issued by the General Manager(NR)/Respondent 2 reads as follows:-

" Railway Board vide letter No.E(NG) 1-92/PM 2/16/ Vol.II dated 11.6.97 have extended the Scheme of General Departmental Competitive Examination to fill up the posts of Supervisors in different departments for recruitment to which the minimum qualification of Diploma in Engineering has been prescribed. However, while doing so, the staff falling in the running category have been specifically barred from the scope of this Scheme."

7. The main grievance of the applicants, who are Diesel Assistants/Electrical Drivers/Firemen Grade 'A' staff falling under the running category is with regard to the above. From the portion of the letter of R-2 referred to above, it is seen that these categories of staff have been omitted for being extended the Scheme of General Departmental Competitive Examination to fill up the posts of Supervisors in different departments. The applicants have also pointed out that in similar circumstances, the General Manager(ER) had recognised the resulting stagnation of the similarly situated persons and had allowed the persons holding Diplomas to appear in the special examination for the purposes of selection to the post of Supervisors, while the decision of R-2 is to the contrary and unsympathetic. However, it is for Respondent 1 i.e. the Railway Board to re-consider the matter in the light of the decision taken by General Manager(ER) in a similar situation. Further, this is essentially a policy decision to be taken by

BC

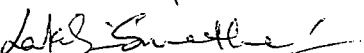
the competent authority after taking into account all the relevant factors, including the requirements of the staff for the Railways which will have to be considered by Respondent 1.

8. In the above facts and circumstances of the case, while no such directions as prayed for by the applicants in the OA can be granted to the respondents to consider the applicants for promotion to the posts of Diesel Supervisor, Electric Chargeman etc. it will be in the fitness of things if Respondent 1 will re-consider the issues raised in the OA and pass appropriate orders regarding promotional avenues to the applicants who are Diploma holders. Necessary action may be taken by the respondents within six months from the date of receipt of a copy of this order with intimation to the applicants.

No order as to costs.


(H.O. Gupta)

Member(A)


(Smt. Lakshmi Swaminathan)

Member(J)

sk