

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

DA No. 1486/94

New Delhi this the 3rd day of November, 1998.

Hon'ble Smt. Lakshmi Swaminathan, Member (J)
Hon'ble Shri K. Muthukumar, Member (A)

1. Sh. Attar Singh
S/O Sh. Kanchid Singh
Head Clerk Depot
Shakurbasti, New Delhi.

2. Sh. Gunraj Pandey
S/O Sh. D. P. Pandey,
Depot Store Keeper,
III Singal, Ghaziabad.

3. Sh. Om Prakash
S/O Sh. Vishan Lal,
Head Clerk, Singal, Ghaziabad.

4. Sh. Ram Prasad
S/O Sh. Baldev Singh
Head Clerk,
Shakurbasti, New Delhi.

5. Sh. Satpal
S/O Sh. Prem Singh
Head Clerk, Regional Store,
Shakurbasti, New Delhi.

6. Sh. Dharam Veer Singh
S/O Sh. Bhonday Singh
Depot Store Keeper/II,
E.M.U./Ghaziabad.

7. Sh. Heera Lal
S/O Sh. Krishan Lal,
Depot Store Keeper II,
Diesel Tukabat, New Delhi.

(By Advocate Sh. K.B. Chatterjee)

... Applicants

Vs.

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

2. The Deputy Controller of Stores,
Northern Railways, Shakurbasti,
New Delhi.

(By Advocate Sh. R.L. Dhawan)

... Respondents

ORDER (ORAL)

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

The applicants are aggrieved by the letter

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respondents dated 4.7.94 and they have sought a direction to the respondents to implement their letters dated 18.6.1981 and 23.9.1985 (Annexures A-1 to A-3).

2. The applicants are Graduate Clerks, who admittedly, had appeared in the competitive examination for promotion to the post of Senior Clerks in the scale of Rs. 330-560 which was held in pursuance of the circular dated 18.6.1981. Shri K.B.Chatterjee, learned counsel for the applicants, has submitted that as per Annexure A-3 letter dated 23.9.1985, 10 persons including the 7 of applicants were shown as having passed the Senior Clerks competitive examination against 13 $\frac{1}{3}$ % graduate quota. His submission is that these persons ought to have been posted against the vacancies of graduate quota which had occurred upto 31.10.1983. He submits that one of the applicants, namely, Applicant No.2 (Shri Gunraj Pandey) has already been promoted to the post of Senior Clerk under the graduate quota u.e.f. 23.9.1985 but the others have not been promoted against that quota for which they had qualified in the competitive examination.

3. The respondents in their reply have taken a preliminary objection on the ground of limitation. However, we find from the reply filed to the representations made by the applicants on 28.2.94 followed by another representations dated 28.3.94, 19.4.94 and finally on 30.6.94, that the respondents have given a reasoned reply in their letter dated 26.7.94. This OA has been filed on 18.7.94. In the circumstances the plea of limitation raised by the respondents is baseless and it is accordingly rejected.

4. On merits, the respondents have submitted that there were only 5 vacancies available against the 13 $\frac{1}{3}$ % graduate quota for promotion to the post of Senior Clerks. In this connection, Shri R.L.Dhawan, learned counsel for the respondents has submitted a letter issued by the respondents in November, 1985(Copy placed on record). Learned counsel has very vehemently submitted that there were only 5 vacancies of Senior Clerks upto 31.10.1983 reserved for graduate



quota and hence 10 persons in the panel issued on 23.9.1985 could not be accommodated in the vacancies arising prior to 31.10.1983. This is, however, disputed by Shri Chatterjee, learned counsel for the applicant, who submits that according to the respondents' own letter dated 4.6.1985 (Annexure R.2) 9 vacancies have been shown in Col. No. 3 against 13 1/3 % graduate quota upto 31.10.1983.

Accordingly, the respondents should re-consider the case of the applicants against this quota as they have qualified in the competitive examination and have been declared successful in the result declared on 23.9.1985. Learned counsel for the applicants further submits that even though there may be 5 vacancies occurring upto 31.10.1983 in the graduate quota, since 10 persons have been shown successful in the examination against this quota, 5 other persons should be adjusted against the subsequent vacancies arising between 1983 and 1985.

5. We are unable to agree with this contention because they have not produced any document to show that the panel prepared as a result of the examination under consideration is valid for subsequent years. Shri Ohawan, learned counsel for the respondents has submitted that one of the applicants i.e. Applicant No.2 has already been accommodated in this quota w.e.f. 23.9.1985. On perusal of the reply filed by the respondents, it is seen that their main contention is that by the time the result of the competitive examination was declared on 23.9.1985, some of the applicants have been promoted against the suitability-cum-seniority quota and hence it was not necessary for the respondents to consider these applicants for promotion in the other quota, namely, the graduate quota. We are unable to accept this contention because, admittedly, the applicants having qualified under the graduate quota are entitled for such benefits as are available under the relevant Recruitment Rules.

6. Shri K.B. Chatterjee, learned counsel for the applicants has

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also submitted that the judgement of the Supreme Court in Smt. Anuradha Mukherjee and Others Vs. UOI & Others (Civil Appeal No.4255 of 1996) with connected cases dated 12.3.1996 is also relevant(Copy placed on record). In pursuance of the judgement of the Supreme Court, the respondents have also issued letter dated 5.6.98 in which para (ii) of the letter reads as follows:-

" All serving graduate Clerks Grade Rs.260-400(RS)/ Rs.950-1500(RPS) who were appointed as such after 1.10.1980 and have subsequently been appointed as Senior Clerks Grade Rs.330-560(RS)/Rs.1200-2040 (RPS) on their qualifying Limited Departmental Competitive Examination will not be eligible for any proforma fixation w.e.f. 1.10.1980 but from the date of their appointment as Clerks Grade Rs.260-400(RS)/Rs.950-1500 (RPS) and actual benefit from the date of their joining as Senior Clerks."

7. In view of the above, the respondents should reconsider the case of the applicants for promotion under the graduate quota as a result of the declaration of results on 23.9.1985 in accordance with the relevant rules. In other words, the respondents cannot deny any benefits that may accrue to the applicants as a result of their success in the examination under the graduate quota by stating that they have already been promoted against suitability-cum- seniority quota. In this connection, it is noted that Applicant No.2 who has been given promotion under the Graduate quota is placed at serial No.6 in the list dated 23.9.1985 and four other applicants are shown senior to him in merit in that list.

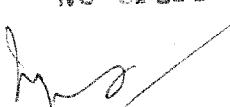
8. In the above facts and circumstances of the case, this application is partly allowed and disposed of with the following directions:-

Respondents to review the case of the applicants for promotion to the posts of Senior Clerks in the 13 $\frac{1}{3}$ % graduate

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quota consequent to the result of the competitive examination declared on 23.9.1985 with effect from the due date i.e. against the vacancies occurring upto 31.10.1983 in terms of their own letter. This shall be done within a period of three months from the date of receipt of a copy of this order with intimation to the applicants. They shall be entitled to consequential benefits in accordance with the relevant rules/instructions.

No order as to costs.


(K. Muthukumar)
Member (A)


(Smt. Lakshmi Subramanian)
Member (J)

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