

Central Administrative Tribunal
Principal Bench New Delhi

19

O. A. NO. 2221 OF 2000

New Delhi dated this the 1st JANUARY 2002

HON'BLE MR. S. R. ADGE VICE CHAIRMAN (A)
HON'BLE DR. A. VEDAVALLI MEMBER (J)

Shri Nirmal Kumar Jain,
S/o Shri N. C. Jain
Draftman Gr. III,
Under Divisional RLY. Manager ,
Central Railway,
JHANSI, U.P. Applicants
(AND 21 OTHERS AS PER MEMO OF PARTIES).

(By Advocate Shri B. S. Maine)

VERSUS

UNION OF INDIA THROUGH :

1. The Secretary,
Ministry of Railways,
(Railway Board),
Rail Bhawan, Raisina Road
New Delhi.
- 2 The General Manager,
Central Railway,
Mumbai CST .
3. The Divisional Railway Manager,
Central Railway,
Jhansi.
4. The Divisional Railway Manager,
Central, Jabalpur,
M.P. Respondents

(By Advocate Shri V. S. R. Krishna)

ORDER

S.R. Adige, VC (A)

Applicants who all claim to be working as
Draftmen Grade III (Rs.4000-6000) impugn respondents'
order dated 28.9.98 (Annexure A-1).

2. Their grievance is that while prior to
issue of impugned letter dated 28.9.98, 20% of
vacancies Draftsmen Grade II (Rs.5000-8000) was

2

filled by direct recruitment and 80% by promotion from Draftsmen Grade III, by the impugned letter dated 28.9.98.

- i) 50% of posts lying vacant in the cadre of Draftsmen Grade III (Rs.4000-6000) as on 1.9.98 shall be surrendered and the remaining 50% will be upgraded to Draftsmen Grade II.
- ii) As and when more posts in the grade of Rs.4000-6000 fall vacant 50% of the same shall be surrendered and 50% shall be upgraded to the scale of Rs.5000-8000. Such review will be done every 6 months from 1.9.98.
- iii) The posts surrendered shall not be credited in surplus staff bank.
- iv) No. of posts in grade Rs.4000-6000 and Rs.5000-8000 will keep changing till all the posts in grade Rs.5000-6000 stand abolished in the manner indicated above.
- v) After all the posts in grade Rs.4000-6000 will get worked off progressively, and the percentage of posts in the grade of Rs.5000-8000 will finally become 30% of the cadre strength as on 1.9.98. The additional posts becoming available in the grade of Rs.5000-8000 as a result of upgradation in the grade of Rs.4000-6000 shall be filled by promotion of staff in the grade of Rs.4000-6000 through the normal mode of selection.
- vi) Till such time as posts in the grade of Rs.4000-6000 continue to exist, vacancies in grade of Rs.5000-8000 arising in the normal course will continue to be filled as per existing procedure except that the direct recruitment quota of 20% for diploma holders will stand enhanced to 50% of the vacancies and after all the posts in the grade of Rs.4000-6000 are fully worked off the posts in the grade of Rs.5000-8000 may be placed entirely by direct recruitment of diploma holders.

3. Applicants contend that they are aggrieved because thereby

- i) Promotion quota of 80% from Draftsman Grade III to Draftsman Grade II has been reduced to 50%.

2

iii) Upgradation of Draftsman Grade III

(Rs.4000-6000) has been linked with the number of vacancies in lower and not higher grade which is confusing, unjustified and discriminatory.

iii) The channels of promotion of Draftsmen Grade III will be virtually blocked.

4. Respondents in their reply have challenged the O.A. They point out that in view of the change in the pattern of works in the drawing offices due to increased use of computer software in drawing/design function, it has been decided to effect rationalisation of the cadre and impugned order dated 28.9.98 has been issued with that objective. The main feature of the aforesaid letter dated 28.9.98 are

- i) Lowest grade in Draftsmen cadre i.e. Rs.4000-6000 will be progressively abolished and no further recruitment will be made in that grade 50% of vacant posts as on 1.9.98 in this grade stand surrendered and remaining 50% will be upgraded in the next higher grade of Rs.5000-8000. As and when more posts in grade Rs.4000-6000 fall vacant in future, 50% will be upgraded to grade Rs.5000-8000 and the remaining 50% will be surrendered.
- ii) Additional posts becoming available in Rs.5000-8000 grade as a result of working off and upgradation of posts in grade of Rs.4000-6000 shall be filled by promotion only from lower grade of Rs.4000-6000 to which applicants belong.
- iii) Vacancies in grade Rs.5000-8000 arising in normal course will be filled 50% by direct recruitment and 50% by departmental promotion. Till then posts in grade Rs.4000-6000 shall continue to exist.
- iv) 100% direct recruitment in grade Rs.5000-8000 will be resorted to only where all the posts in grade Rs.4000-6000 are completely worked off.

5. We have considered the matter carefully.

6. In so far as the first cause of their grievance is concerned namely reduction in promotion quota from Draftsmen Grade III to Draftsmen Grade II from 80% to 50%, respondents in their reply have pointed out that prior to issue of impugned letter dated 28.9.98, the percentage distribution of Draftsmen Grade II posts to the total number of posts was 20% which has now been increased to 30%. Thus whereas the promotion quota in the earlier order worked out to 16% (80% of 20%), after the issue of impugned order dated 28.9.98, the same is 15% (50% of 30%). This negligible reduction of 1% will be more than made up for by the additional posts becoming available in grade of the 50% vacant posts in Rs.4000-6000 grade which will be filled by promotion only.

7. Applicants in the corresponding para of their rejoinder have disputed respondents' contention that pursuant to the implementation of impugned order dated 28.9.98 the percentage of posts of Draftsmen Grade II to the total number of posts will increase from 20% to 30%, but in our considered opinion it is not for the Tribunal to go into this. The impugned circular dated 28.9.98 is the product of a policy decision in view of the change in the pattern of work in the drawing offices due to increased use of computer software in drawing/ design function. Applicants have no enforceable legal right to be promoted from Draftsmen Grade III to Draftsmen Grade II. They have only an enforceable right to be considered for promotion against available promotional vacancies subject to their being eligible

for the same, and even if pursuant to the implementation of the impugned circular dated 28.9.98, the promotion quota from Draftsmen Grade III to Draftsmen Grade II undergoes some change, it is only their chances for promotion to Draftsmen Grade III that are affected and not that their fundamental rights are violated, which alone would warrant judicial interference.

8. However, nothing contained in this order will preclude respondents themselves from considering such changes in the impugned circular dated 28.9.98, as they feel to be necessary having regard to the grievance raised by applicants in the present O.A.

9. Subject to what has been stated in Para 8 above, the O.A., is dismissed. No costs.

A. Vedavalli

(Dr. A. Vedavalli)
Member (J)

/GK/

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