

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA.No.05/2000

New Delhi, this 24th day of May, 2001

HON'BLE SMT. LAKSHMI SWAMINATHAN, VICE CHAIRMAN(J)  
HON'BLE SHRI M.P.SINGH, MEMBER(A)

1. Suresh Chand  
F-409, Sector 9  
New Vijaya Nagar, Ghaziabad

2. Chuuni Lal  
350-C, Railway Main Colony, Ghaziabad

3. Ajay Vir Saxena  
B-63, Sector 9  
Vijaya Nagar, Ghaziabad

4. Anil Kumar  
F-409, Sector 9  
Vijaya Nagar, Ghaziabad

5. Surendra Singh Tomar  
H.No.19, Panchwadi, Ghaziabad

6. B.K. Upadhyay  
G-19A, Sector 9  
New Vijaya Nagar, Ghaziabad

7. Jitender Kumar  
FCA 2033, Sanjay Memorial Nagar  
NIT, Faridabad

8. Pawan Kumar  
D-90, Sector 9  
New Vijaya Nagar, Ghaziabad

9. Rakesh Kumar  
F-409, Sector 9  
New Vijaya Nagar, Ghaziabad

10. Ashok Kumar  
F-409, Sector 9  
New Vijaya Nagar, Ghaziabad

11. Ibne Hasan  
F-409, Sector 9  
New Vijaya Nagar, Ghaziabad

12. Brij Kishore  
R/o Bandukvale  
Swarup Nagar, Tundla

13. Anil Dixit  
G-81, Sector 9  
New Vijaya Nagar, Ghaziabad

14. Umesh Prakash Tripathi  
369-B, Panjab Line  
Rly Colony, Ghaziabad

15. Kishori Lal  
Arya Nagar  
Rly Colony, Ghaziabad

16. Jagdish Singh  
F-412, Sector 9  
New Vijaya Nagar, Ghaziabad

17. Madan Lal  
305-C, Arya Nagar  
Rly Colony, Ghaziabad

18. Vijendra Singh  
D-17, Sector 9  
New Vijaya Nagar, Ghaziabad

19. Virendra Kumar Tyagi  
F-74, Sector 9  
New Vijaya Nagar, Ghaziabad

20. Hari Kishan Samewal  
C-539, Meerut Road  
Nand Gram, Ghaziabad

21. Yoginder Pal  
A-338, Meerut Road  
Nand Gram, Ghaziabad

22. Vinod Kumar  
G-20-A, Sector 9  
New Vijaya Nagar, Ghaziabad

23. Ashok Kumar Gaekwad  
A-227, Meerut Road  
Nand Gram, Ghaziabad

24. Manoj Kumar Saxena  
A-44, Meerut Road  
Mariam Nagar, Nandgram, Ghaziabad

25. Susheel Kumar  
137-A, East Shalimar Bagh, Delhi

26. Sunil Kulshreshtha  
G-38, Sector 9  
New Vijaya Nagar, Ghaziabad

27. Ayub Ali  
362-F, Arya Nagar  
Rly Colony, Ghaziabad

28. Kulbir Singh  
362-F, Arya Nagar  
Rly Colony, Ghaziabad

29. Mahinder Pal Singh  
362-F, Arya Nagar  
Rly Colony, Ghaziabad

30. Anil Kumar Khanna  
G-38, Sector 9  
New Vijaya Nagar, Ghaziabad

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31. Rakesh Kumar Pandey  
301-E, Arya Nagar  
Rly Colony, Ghaziabad

32. Jaiprakash Upadhyay  
F-409, Sector 9  
New Vijaya Nagar, Ghaziabad

33. Ram Moorthy Yadav  
F-409, Sector 9  
New Vijaya Nagar, Ghaziabad

34. Jwala Prasad  
E-193, Sector 9  
New Vijaya Nagar, Ghaziabad

35. Narayan Singh  
59/1, Shanker Puri, Sector 9  
New Vijaya Nagar, Ghaziabad

36. Krishna Murari  
F-344, Sector 9  
New Vijaya Nagar, Ghaziabad

37. Dharam Singh Negi  
G-38, Sector 9  
New Vijaya Nagar, Ghaziabad

38. Sudhir Kumar Khare  
D-73, Sector 9  
New Vijaya Nagar, Ghaziabad

39. Chandra Shekhar  
D-73, Sector 9  
New Vijaya Nagar, Ghaziabad

40. Jeva Ram  
G-38, Sector 9  
New Vijaya Nagar, Ghaziabad

41. Anil Kumar  
D-90, Sector 9  
New Vijay Nagar, Ghaziabad

42. Chandra Shekar  
178, Bharat Nagar, Ghaziabad

43. Balram Singh Pal  
C-53, Sector 9  
New Vijay Nagar, Ghaziabad

44. Neeraj Khanna  
B-3, Sector 9  
New Vijay Nagar, Ghaziabad

45. Gaya Frasad Maurya  
178, Bharat Nagar, Ghaziabad

46. Dinesh Kumar  
D-86, Sector 9  
New Vijay Nagar, Ghaziabad

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47. Vijendra Singh  
D-86, Sector 9  
New Vijay Nagar, Ghaziabad

48. Jogendra Singh  
F-339, Sector 9  
New Vijay Nagar, Ghaziabad

49. Madan Pal  
Flat No.135, Shanker Puri  
Ghaziabad

.. Applicants

(By Shri J.K. Bali, Advocate)

versus

Union of India, through

1. Chairman  
Railway Board & Secretary  
Ministry of Railways  
Rail Bhawan, New Delhi

2. General Manager  
Northern Railway  
Baroda House, New Delhi

3. Divisional Railway Manager  
Northern Railway  
State Entry Road  
New Delhi

.. Respondents

(By Shri Rajender Khatter, Advocate)

ORDER(Oral)

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

In this application which has been filed by 49 applicants, they are aggrieved by the orders passed by the respondents dated 31.12.1998 and 11.6.1997.

2. This is the second round of litigation by the applicants as they had earlier filed OA.No.812/98 which was disposed of by the Tribunal vide order dated 24.4.1998 with a direction to the respondents to dispose of the representations of the applicants dated 10.3.1997 and 26.6.1997. This has been done by the impugned order dated 31.12.1998.

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3. The main grievance of the applicants is that they, as Diploma Engineering Batch of 1989 Electric Assistant Drivers, should be allowed to participate in the Departmental examination for Supervisors like ATLC, TLC, ATFR, PRC etc. Their request for such participation is in terms of the respondents' letter dated 20.8.1993 and the scheme of General Departmental Competitive Examination (hereinafter referred to as GDCE) which had been extended by letter dated 11.6.1997 upto 31.12.1997. During the hearing, neither of the learned counsel were able to say whether the GDCE scheme has been further extended beyond 31.12.1997. The applicants submit that they have been arbitrarily excluded from the benefit of the GDCE scheme, the scope of which has been widened by the respondents vide their letter dated 11.6.1997. According to them, better prospects have been given to Engineering Diploma holders working in lower grade posts in other categories while denying the same benefits to them, who are also Diploma holders who have entered service in 1989. Admittedly, the applicants belong to the staff in the 'running' categories who have been specifically excluded from the eligible staff under the GDCE scheme. This is provided in paragraph 2.1 of the letter dated 11.6.1997.

4. Shri J.K. Bali, learned counsel has submitted that the applicants should also be considered for promotion to supervisory and officers grade posts and this could be done if the benefit is given to them under the GDCE scheme. His contention is that the exclusion of the 'running' categories of staff from the benefit of the

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widened scope of the GDCE scheme is not based on any intelligible differentia having nexus with the object of the scheme and, therefore, it is violative of Article 14 of the Constitution of India.

5. We have seen the reply filed by the respondents and have heard Shri Rajender Khatter, learned counsel. In the reply, the respondents have stated that at present the applicants and others are not Diesel Assistants/Electric Assistants and they, along with 38 others, have also got two or three promotions during the last nine years and are working as Driver (Goods). They have, therefore, submitted that the applicants who are not Electric Assistants/Diesel Assistants at present, cannot compare themselves with other persons in different/stationary posts who may be in similar pay scale. Shri Rajender Khatter, learned counsel has also submitted that the decision impugned here was taken by the Railway Board as a policy decision and is based on the relevant materials placed before the Board. He has submitted that there is no discrimination or arbitrariness in the decision. Furthermore, the learned counsel has mentioned that the applicants will get the benefit of their qualifications as and when selections are held for the posts to which they are eligible for promotion in their own zone of consideration. He has also submitted that the applicants were recruited through the Railway Recruitment Board after due publication of an advertisement containing all details of grades etc. and as such the applicants were aware of all the conditions and prospects before joining as

Diesel/Electric Assistants. Learned counsel relies on a judgement of the Supreme Court in Technical Employees Association of Railway & Anr. Vs. Ministry of Railways & Ors. (Writ Petition (C) No.289 of 1999) decided on 31.3.2000 (copy placed on record). He has submitted that the Apex Court has approved the perspective that for maintaining efficiency of service, higher qualification is required for duties in the higher positions and, therefore, prescribing such qualifications cannot be held to be arbitrary or irrational. Learned counsel has, therefore, submitted that the OA is misconceived and has prayed that the same may be dismissed.

7. We have also seen the rejoinder filed by the applicants and have heard Shri J.K.Bali, learned counsel.

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

9. Along with the OA, the applicants have also filed MA.7/2000 under Rule 4(5)(a) of the CAT (Procedure) Rules, 1987 praying for being allowed to file a joint application. That MA has been opposed by the respondents who have submitted that all the applicants have separate cause of action. They have, therefore, prayed that MA.7/2000 should be dismissed. Shri J.K. Bali, learned counsel has, however, submitted that having regard to the provisions of Rule 4(5)(a) of the CAT (Procedure) Rules, 1987, as there is a "commonalty of interest" as

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observed by the Hon'ble Supreme Court in The Chairman, Tamil Nadu Housing Board, Madras Vs. T.N.Ganapathy (AIR 1990 SC 642), the MA may be allowed. He has submitted that even though the applicants may be working in different posts, their grievance is the same, namely, that by the letter dated 11.6.1997 the respondents have taken an arbitrary decision to exclude them from appearing in the GDCE as part of the staff belonging to 'running' categories. Taking into account the facts and circumstances of the case, we see force in the submission made by the learned counsel for the applicants that the applicants, who are admittedly staff belonging to the 'running' categories, have a common cause. They are aggrieved that they have not been allowed to participate in the GDCE scheme as widened by the respondents' letter dated 11.6.1997. Accordingly, MA.7/2000 is allowed.

10. As this application has been finally heard and MA.7/2000 is being disposed of today, learned counsel for the respondents does not press MA.1943/2000. That MA is also accordingly disposed of as not pressed.

11. We have further considered the merits of the case. According to the applicants, the number of promotions they have earned in the normal course of service has no bearing on the grievance raised in the present application, regarding their exclusion from the benefit of the GDCE scheme as given to other categories of staff by the respondents. The contention of Shri J.K. Bali, learned counsel is that as stated in paragraph 2 of the impugned

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letter dated 11.6.1997, the Ministry of Railways have considered the question of widening the scope of the scheme of GDCE. However, his further contention that the applicants ought not to have been excluded in the widened scheme of GDCE cannot be accepted. It is clear from a perusal of this letter that the authority, i.e. the Railway Board, have taken a decision in the matter as to which of the categories of staff who are Diploma holders and who are occupying lower grade posts should be allowed to be included in the GDCE scheme. In paragraph 2(iv) of the impugned letter dated 11.6.1997, they have included various categories of staff in Civil, Mechanical, Electrical and S&T Departments who are to be included. As regards the staff falling in the 'running' categories, they have taken a decision that the applicants will not be eligible to apply under the above Scheme. It is not disputed by the applicants that they have already got two or three promotions during the last nine years, even though as submitted by the learned counsel for the applicants, they may be in the lower grades. This fact cannot be ignored as it is relevant in considering the Scheme. In the reply given by the respondents to the representations made by the applicants dated 10.3.1997 and 26.6.1997, the respondents have also stated the reasons why they have been excluded from the Scheme. It is also relevant to note that the respondents have themselves stated that the applicants would be eligible to appear in the Departmental examination for supervisors like ATLC, TLC, ATFR, PRC etc. after attaining the minimum service required for the posts as per the rules. In paragraph 3

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of the impugned letter dated 31.12.1998 they have also stated that in order to become Loco Supervisors, one has to gain experience in the field by working as Assistant Driver, Sr. Assistant Driver, Shunter/ET, Driver (Goods), Driver (Mail), Driver(Pass) etc. The applicants admittedly belong to the category of Driver (Goods) at present. In the circumstances of the case, we see no arbitrariness or illegality on the part of the respondents in taking a conscious decision in the manner they have done in the impugned letter dated 11.06.1997 or in the reasons given by them for excluding the applicants from the GDCE Scheme or in their subsequent letter dated 31.12.1998. In the facts and circumstances of the case, the contention of the learned counsel for the applicants that all the Diploma holders, including the applicants, who are admittedly Diploma holders working in lower grades, should be considered as a class and that there can be no further classification, cannot be agreed to.

12. It is settled law that a reasonable classification can be made, taking into account the objective sought to be achieved by it which is not violative of the provisions of Article 14 of the Constitution. In the facts and circumstances of the case, we are, therefore, unable to agree with the contentions of the applicants that the respondents have acted in a discriminatory or arbitrary manner against their interests because their channel of promotion has not been unfairly or illegally curtailed by the respondents.

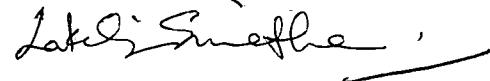
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13. In the facts and circumstances of the case and for the reasons given above, we find no good grounds to interfere in this matter in exercise of the power of judicial review. The OA accordingly fails and is dismissed. No order as to costs.

  
(M.P. Singh).  
Member(A)

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(Smt. Lakshmi Swaminathan)  
Vice Chairman(J)