

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

C.P. NO. 417/2001
IN

O.A. NO. 1802/2000

New Delhi, this the 17th day of October, 2001

HON'BLE MR. KULDIP SINGH, MEMBER (J)
HON'BLE MR. S.A.T. RIZVI, MEMBER (A)

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1. Shri Vinod Kumar
S/o Shri Ram Swaroop Chawla,
Parcel Supervisor,
New Delhi Railway Station
Northern Railway
New Delhi
 2. Shri Adarsh Chander Bhalla,
S/o Shri M.L. Bhalla,
Parcel Supervisor,
Northern Railway,
New Delhi Railway Station
New Delhi
 3. Shri Bhusan Chander Sharma,
S/o of Shri H.C. Sharma
Parcel Supervisor,
Northern Railway,
New Delhi Railway Station
New Delhi
 4. Shri Awadh Kishore,
S/o Shri Moti Prasad,
Parcel Supervisor,
Northern Railway,
New Delhi Railway Station
New Delhi
- Petitioners
(By Advocate : Shri S.K. Sawhney))

Verus

1. Shri A.P. Mishra,
Divisional Railway Manager,
Northern Railway,
DRM Office, New Delhi
 2. Shri Sunil Sharma,
Sr. Divisional Personnel Officer,
Northern Railway
D.R.M. Office, New Delhi
- Respondents
(By Advocate: Sh B.S. Jain & Sh. Rajeev Sharma)

O R D E R

BY HON'BLE MR. S.A.T. RIZVI, MEMBER(A) :

Non-compliance of the order dated 7th March,
2001 passed by this Tribunal in OA No. 1802/2000 forms
the basis of the present Contempt Petition.

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2. The applicants in the OA were Parcel Supervisors (PS) in the pay grade of Rs.5500-9000. They were aspirants for promotion to the post of Chief Parcel Supervisor (CPS) in the pay grade of Rs.6500-10500/-. Nine vacancies in the rank of CPS were then in existence. The aforesaid applicants had impugned the seniority list in the light of the judgement of the Supreme Court in Ajit Singh Januja & Ors v. State of Punjab & Ors 1996 (1) Vol.22 SCSLJ 439. The aforesaid applicants, who belonged to the general category, stood to gain in seniority on the basis of the law laid down by the Supreme Court in the case of Ajit Singh Januja & Ors. (supra). Accordingly, this Tribunal in its Order dated 7th March, 2001 observed that "before the claim of candidates for promotion to the post of Chief Parcel Supervisor is undertaken, the seniority list of Parcel Supervisors will have to be revised". Having made the aforesaid observation, the Tribunal proceeded to direct the respondents in that OA to undertake the exercise involved in revising the seniority list in question and thereafter proceed to pass orders of promotion.

3. We have heard the learned counsel on either side and have perused the material placed on record.

4. We find that in compliance of the aforesaid order of this Tribunal, the respondents have revised the seniority list in respect of PSs and about the correctness of the same (Annexure P/3), there is no dispute. Soon thereafter, the respondents proceeded to cancel the result of the written test earlier held on

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24th and 31st October, 1998 for promotion to the post of CPS. The aforesaid cancellation was necessitated by the changed seniority list which would imply change in the names of persons (PSSs) falling in the zone of consideration for promotional purposes. The petitioners (applicants in the aforesaid OA) are aggrieved by the cancellation of the written test and have submitted that the respondents are bound to hold the viva voce test on the basis of the aforesaid written test held in October 1998, and to promote those found suitable (from among those who had cleared the written test) to the post of CPS.

5. The respondents, on the other hand, contend that they are free to proceed afresh on the basis of the revised seniority list issued on 16.7.2001 (P/1). This is because, according to them, the aforesaid revised seniority list has been prepared in compliance of the directions of this Tribunal and the aforesaid course of action (of proceeding afresh) has not been excluded by the direction given by this Tribunal on 7.3.2001. We find force in this plea.

6. The revised seniority list incorporates three names, namely, S/Shri Payre Lal Nigam, Vidhya Prakash and Rajinder Kumar, who were not included in the zone of consideration (for 9 vacancies) when the written test was earlier held in October 1998. They will have now to be included in accordance with the revised seniority list. Similarly, according to the respondents, two other PSSs, namely, S/Shri Amar Singh

and Raj Kumar who had earlier been included in the zone of consideration when the test was held in October 1998 will have to be excluded therefrom in terms of their revised seniority. The previous zone of consideration consisted of 27 PSs as the number of vacancies then in existence was 9.

7. The number of posts of CPS has since gone up to 20 instead of 9. The zone of consideration will also undergo appropriate changes, according to the relevant rules, in order to consider PSs for promotion to the post of CPS. The learned counsel appearing on behalf of the respondents submitted that in view of the revised number of posts of CPS now available, all the incumbents presently working in the post of PS will be considered for promotion as all of them would stand included in the zone of consideration. The total number of PSs in position was stated to be 42.

8. We have considered the rival contentions raised and have carefully gone through the order passed by the Tribunal on 7.3.2001. We find nothing in the said order which would preclude consideration of PSs for promotion to all the 20 posts of CPSs which are now available. The same also does not preclude consideration of all the PSs coming within the zone of consideration for the purpose of promotion in accordance with the relevant rule. It is patently incorrect, in our view, to argue that this Tribunal had in its order of 7.3.2001, indicated that even after the seniority list has been revised in terms of its own direction,


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only those would be considered for promotion to the post of CPS who had qualified in the written test held in October 1998. In the circumstances, holding of a fresh written test following revision in the seniority list will be wholly in order. Moreover, it will also be fair, just and proper to do so.

9. For the reasons mentioned in the preceding paragraphs no case of contumacious and wilful disobedience of the orders in question is made out. The CP, therefore, fails and is dismissed. Notices issued are discharged.


(S.A.T. RIZVI)
MEMBER (A)


(KULDIP SINGH)
MEMBER (J)

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