

(16)

Central Administrative Tribunal
Principal Bench, New Delhi

O.A. No. 1744 of 1988

15th December, 1993

Shri J.P. Sharma, Member(J)

Shri P.T. Thiruvengadam, Member(A)

1. Shri Kishan Chand,
Fireman Ist
Loco Shed, Northern Railway, Rewari.
2. Shri Tek Chand,
Fireman Ist
Loco Shed, Northern Railway, Rewari.
3. Shri Sher Singh,
Fireman Ist
Loco Shed, Northern Railway, Rewari.
4. Shri Sher Singh,
Fireman II
Loco Shed, Northern Railway, Rewari.

Applicants

By Advocate Shri VP Sharma.

Versus

1. Union of India through The General Manager,
Northern Railway, Baroda House,
New Delhi.
2. The Divisional Railway Manager,
Northern Railway,
Bikaner.
3. The Divisional Railway Engineer,
Northern Railway,
Bikaner.

Respondents.

By Advocate : None

O R D E R

Shri P.T. Thiruvengadam, Member

Three of the applicants in this OA were functioning as fireman Grade 'C' prior to 1.1.1986. Two of them were promoted as fireman Grade 'B' on adhoc basis on 14-12-1986. The third applicant continued to function as fireman Grade 'C' even at the time of filing of the OA in Sep 1988.

2. The fourth applicant had been promoted as fireman Grade 'B' even prior to 1-1-1986, as promotion to this grade having

taken place on 4-2-1984.

3. Upto 1-1-1986 loco staff used to progress from the post of cleaner to the post of fireman Grade 'C', Grade 'B' and Grade 'A' respectively in that order. Promotion from fireman Grade 'C' to Grade 'B' was based on seniority cum suitability and further promotions to fireman Grade 'A' was based on Railway Board's letter dated 30-4-1982, the relevant portions of which read as under:-

Vacancies of fireman Grade 'A' are to be filled by:-

(a) 50% by the usual selection procedure from erstwhile Fireman 'B' who have studied upto 6th class and are below 45 years of age.

(b) 50% by the Department examination from erstwhile Fireman 'B' and 'C' who are Matriculates and have 3 yrs. Rly. Services.

4. With the acceptance of the recommendations of the Fourth Pay Commission, the posts of fireman 'B' and Fireman 'A' were merged together under common grade as fireman Grade I ~~were sanctioned~~. Fireman Grade 'C' which by itself had two scales were merged into a single revised scale ^{and} of the posts were re-designated as Second Fireman. The merger of the grades/scales as above took place vide Railway Board's letter dated 24-9-1986. At this stage, decisions ^{not} had to be taken with regard to the classification of the single revised scale of First Fireman (merger of erstwhile fireman Grade 'B' and Grade 'A'), as to whether the mode of filling up should be by selection or by seniority cum suitability. Pending such a decision Railway Board advised on 25-9-1986 that promotions to the revised merged scale should be made on adhoc basis and not on regular basis.

5. Thus out of 4 applicants, only one applicant who had already been promoted to the then fireman 'B' grade as on 4-2-1984 was automatically fitted into the merged grade of fireman Grade I with effect from 1-1-1986. Hence there was no question of subjecting him to further selection

for the post of first fireman (on 12-3-1987 Railway Board classified the post of first fireman as a post to be filled by the process of selection and on 3-11-1987 Railway Board conveyed the decision that vacancies in the grade of first firemen will be filled cent percent by promotion of second firemen by a process of selection but without any restriction of age or qualification.)

6. As regards the remaining three applicants, two of them had been promoted on adhoc basis in Dec 1986 to the post of then fireman 'B' / fireman Grade I from 1-1-1986) and the third applicant continued to be fireman Grade 'C' / fireman Grade II even after 1-1-1986 till the time of filing this OA. In August 1988, Bikaner Division of Northern Railway issued a notification (dated 31-8-1988) for filling up the posts of first fireman and a call for selection of eligible adhoc first fireman and second fireman was made. Against this notification, this OA has been filed with prayer to quash the order of notification dated 31-8-1988.

7. This is an old case and had been on hearing for a long time and in number of occasions when the case was listed for hearing none of the parties were present. Even on 6-12-93 only learned counsel for the applicants was present and there was none to represent the respondents. We have taken the assistance of the applicant's counsel in disposing of the case.

8. The main contention of the applicants is that they had been promoted as fireman B / fireman Grade I in December 1986 and since the post of fireman B ~~was~~ existed earlier was to be filled by a process of suitability, the question of calling the applicants for selection should not arise. We ~~were~~^{are} not impressed by the arguments since the applicants (only two of them) had been promoted as fireman grade I in December 1986 on adhoc basis based on instructions issued by Railway Board

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who had specifically mentioned that pending a decision on the classification of the post of fireman Grade A (whether to be filled by selection or suitability) promotion to the merged grade should be only on adhoc basis. Thus the applicants do not have any right to continue in the post of fireman Grade I unless found eligible through the normal process of selection, as the Railway Board decided in Mar 1987 that the post of fireman should be classified as selection post. We have already noted that of the remaining two applicants one was automatically promoted to the post of fireman Grade I since he had been promoted to the post of fireman grade B in 1984 itself and the Grades of fireman Grade B and Grade A were merged to form a single grade of fireman Grade I with effect from 1-1-1986. The last applicant was only a fireman Grade II even at the time of notification for selection was issued in August 1988. Thus the prayer for quashing the impugned order dated 31-8-1988 by which ~~the~~ three of the applicants were called for selection to the post of first fireman cannot be held to be illegal.

9. The learned counsel for the applicants ^{drew} ~~de~~ attention to the order passed by this Bench of Tribunal in OA 621/90 on 9-8-1991. This order permits the filling up of the vacancies of fireman Grade I which arose after 1-1-1986 as per the instructions issued by the Board in their letter dated 3-11-1987. However, vacancies prior to 1-1-1986 were to be filled in accordance with the recruitment rules which were in force during the period anterior to 1-1-1986. In this OA ^(621/90) respondents are the same as in the current OA and we expect the orders of this Bench would have been implemented.

10. In the circumstances this OA is dismissed. costs on parties.

P. J. Thiruvengadam
(P.T. Thiruvengadam)
Member (A)

J. P. Sharma
(J.P. Sharma)
Member (J)

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