

8

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 778/88

T.A. No.

199

DATE OF DECISION 20.9.93

Shri Bal Kishan & Ors.

Petitioner

Shri R.K. Kamal

Advocate for the Petitioner(s)

Versus

Union of India, and Ors.

Respondent

Shri B.K. Aggarwal

Advocate for the Respondent(s)

CORAM

The Hon'ble Mr. I.K. Rasgotra, Member (A)

The Hon'ble Mr. J.P. Sharma, Member (Judl.)

1. Whether Reporters of local papers may be allowed to see the Judgement?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the Judgement?
4. Whether it needs to be circulated to other Benches of the Tribunal?

(ORAL) JUDGEMENT

(By Hon'ble Mr. I.K. Rasgotra, Member)

We have heard Shri R.K. Kamal and Shri B.K. Aggarwal, learned counsel for the petitioners and the respondents, respectively. The case of the petitioners in brief is that the cadre of the Ticket Checking Staff was restructured in accordance with Railway Board's order No. PC.III/80/UPG/19 dated 20.12.1983. According to the said order of restructuring, the posts of the

Ticket Checking Staff in the pay-scales of Rs.425-640, 550-750 and 700-900 are increased from 15.4 per cent to 29 percent, from 1 per cent to 9 per cent, and from 0.51 per cent to 5 per cent, respectively. The petitioners claims that if all the upgraded posts have been made available for filling up under the modified selection procedure as laid down in the Railway Board's letter, *being of* they would have been promoted without subjected to the normal mode of selection, viz., written test and viva-voce test. They have prayed for the following reliefs:-

(i) The impugned order dated 20.4.1988, copy placed at Annexure A-2, be set aside and quashed as violative of Railway Board's instructions; and

(ii) to promote the applicants and similarly circumstanced persons according to their seniority in the combined cadre in the scale of Rs.1400-2300 without conducting any written test or viva-voce test.

2. The petitioners have contended that instead *of* *with* complying *the implementation of* the instructions of the Railway Board, the respondents started a discriminatory

practice of filling up some posts by the modified
and some by process of selection by *for*
 selection procedure *of* holding written and viva-voce
 tests. This allegation of the petitioners has been
 denied by the respondents in their counter-affidavit
vide para 6.6 in the following words:-

"The additional posts allotted w.e.f. 1.1.1984
 have largely been filled up w.e.f. 1.1.1984
 by promotion of senior most staff on the basis
 of scrutiny of records without holding written
 test or viva-voce test. The selection under
 letter dated 20.4.1986 has been arranged to
 fill up the resultant vacancies in grade
 Rs. 1400-2300 occurred after 1.1.1984 and
 anticipated vacancies occurring within next
 one year."

3. The stand of the respondents, thus, is clear that
 the vacancies which arose consequent upon the letter of
 the Railway Board, have been filled up in accordance with
 the modified selection procedure as laid down in the
 said letter of the Railway Board.

4. In the rejoinder filed by the petitioners, no
 material has been brought out to refute the averment
 made by the respondents. The petitioners have also not brought
~~any~~ ^{has been} on record if any person junior to them ~~was~~ promoted

on the basis of the modified selection procedure, laid down by the Railway Board in the order/restructuring of the cadre of the Ticket Checking Staff. In that view of the matter, the case of the petitioners is not established. Having regard to the clear averment made by the respondents, we are of the opinion that the matter does not merit our interference in the circumstances of the case. It is, accordingly, dismissed, leaving the parties to bear their own costs.

J. P. Sharma

(J. P. Sharma)
Member (J)

I. K. Rasgotra

(I. K. Rasgotra)
Member (A)