



**Central Administrative Tribunal
Principal Bench, New Delhi**

**O.A. No. 2158/2020
M.A. No. 2745/2020/M.A. No. 2746/2020
with
O.A. No.2206/2020
M.A. No. 2809/2020**

This the 8th day of January, 2021

(Through Video Conferencing)

**Hon'ble Mr. A.K. Bishnoi, Member (A)
Hon'ble Mr. R.N. Singh, Member (J)**

OA No. 2158/2020

1. Hansraj Arora
Aged about 24 years,
S/o Sh. Lal Chand Arya
r/o VPO Buteri, Tehsil, Bansur,
District-Alwar
Rajasthan-301402
Mob. No.7734943094
Post: Maintainer/Electrician
Post Code: RNE 16
Group D
2. Rajesh Kumar
Aged about 23 years,
S/o Sh. Sohan Lal
R/o V-51-F, Lalbai,
PO 50-F Roopnagar,
Sri Karanpur,
Sri Ganganagar, Rajasthan-335073
Mob: 9549565775
Post: Maintainer/Electrician
Post Code: RNE 16
Group D
3. Khushboo
Aged about 23 years,
D/o Sh. Ahsok Kumar
R/o Ward No. 34 New,
Near Happy Childereb School Suratgart
Distt. Shriganganagar,
Rajasthan-335804
Mob: 6375877688

Post: Maintainer/Electrician
Post Code: RNE 16
Group: D



4. Mahesh Kumar Sharma
Aged about 24 years,
S/o Sh. Mukesh Sharma
R/o Village Khurhra Kala Khuthura Khurd,
T.H. Basai Jaipur,
Rajasthan-303012
Mob. No. 8875286253
Post Code: RNE 16
Group: D
5. Arti Mishra
Aged about 28 years,
D/o Sh. P.P. Mishra
R/o 283 KA/541, Bharatpuri-B
Near Fairway Montnari School
Ambedkar Nagar Talkatora Road,
Lucknow
Mob. No. 9451927753
Post: Maintainer/Electrician
Post Code: RNE 16
Group: D
6. Sourav Kumar Sinha
Aged about 21 years,
S/o Sh. Kamal Dev Prasad
R/o WCD-24, Pashimpath, Chandarpura,
Bokaro Steel City,
Jharkhand-828403
Mob. No. 9006554988
Post: Maintainer/Electrician
Post Code: RNE 16
Group: D
7. Gurusevak Kumawat
Aged about 23 years,
S/o Sh. Birman Ram Kumawat
R/o Ward No. 17, Aadarh Kumar,
Sri Karanpur, Dist. Sri Ganganagar,
Rajasthan-335073
Mob. No. 8058557450
Post: Maintainer/Electrician
Post Code: RNE 16
Group: D
8. Bhupendra Sharma
Aged about 26 years,

S/o Sh. Sh. Mathura Prasad
R/o Village Chhad Gaon, Post Bhainsa,
Distt. Mathura,
State UP-281005
Mob. No. 8006803130
Post: Maintainer/Electrician
Post Code: RNE 16
Group: D



9. Ankit Kumar
Aged about 23 years,
S/o Sh. Laxminarayan
R/o Chandipur, Post-Banthra,
Distt. Fatehpur,
Uttar Pradesh-212659
Mob. No. 9369321682
Post: Maintainer/Electrician
Post Code: RNE 16
Group: D
10. Navnit Kumar
Aged about 23 years,
S/o Sh. Tulasi Prasad
R/o Village Barwa, Post Barwa Bazar,
Distt. SRBN, Bhadohi
Mob. No. 8960820254
Post: Maintainer/Electrician
Post Code: RNE 16
Group: D
11. Govind Singh
Aged about 26 years,
S/o Sh. Jagraj Singh
R/o 21-A, Ward No. 25,
Shivam Enclave,
Ganganagar,
Rajasthan-305001
Mob. No. 7792073601
Post: Maintainer/Electrician
Post Code: RNE 16
Group: D
12. Surya Bhan
Aged about 27 years,
S/o Sh. Jai Prakash
R/o G.T. Road, Khadi Aashram Colony,
Panipat, Haryana-132103

Mob. No. 8950689823
Post: Maintainer/Electrician
Post Code: RNE 16
Group: D



13. Krishna Kumar Gurjar
Aged about 26 years,
S/o Sh. Laxmi Narayan Gurjar
R/o Village Bagdeda, Post Bhanwta,
Tehsil Bawsa,
Distt. Dausa, Rajasthan- 303325
Mob. No. 9784157201
Post: Maintainer/Electrician
Post Code: RNE 16
Group: D

14. Dinesh Kumar
Aged about 31 years,
S/o Sh. Om Prakash
R/o Village Sardar Gadia, 7MSR,
Post Bharwana, Distt. Hanumangarh,
Rajasthan-335504
Mob. No. 9875239981
Post: Maintainer/Electrician
Post Code: RNE 16
Group: D

OA No. 2206/2020

Shubham Sharma
Aged about 26 years,
S/o Sh. Rajesh Kumar Sharma
R/o S-2, Police Club,
Chipitola, Pakabganj,
Agra, Uttar Pradesh, -282003
Mob. No. 7210884977
Post: Asstt./CC
Post Code: CNE06
Group: D

... Applicants

(through Advocate Sh. Anuj Aggarwal)

Versus

Delhi Metro Rail Corporation Ltd.
Through its Chairman/Managing Director
Metro Bhawan Fire Brigade Lane,

Barakhamba Road,
New Delhi

... Respondent

(through Advocate Sh. V.S.R.Krishna)

ORDER (Oral)

Hon'ble Mr. R.N. Singh, Member (J):



The issue raised by the applicants are admittedly the same and, therefore, with the consent of the parties, both the OAs have been heard together and are being decided by a common order.

2. The precise facts leading to the present OAs are that the applicants in OA No.2158/2020 have applied for the post of Maintainer/Electrician (Post Code RNE-16) in response to the advertisement issued by the respondents. The applicant in OA No.2206/2020 has applied for the post of Assistant CC (Post Code CNE-06). The learned counsel for the applicants submits that the applicants had participated in the selection process for the post under reference on 21.04.2020. The applicants were selected for appointment on the respective posts. However, subsequently, vide impugned notice dated 22.09.2020, the vacancies for the aforesaid posts have been reduced by the respondents, resulting into non-selection of the applicants



for the posts under reference. The learned counsel for applicants argues that once the applicants have participated in response to the advertisement issued by the respondents and they were selected for the respective posts, it is illegal at the end of the respondents to reduce the vacancies after around five months. He further submits that the reason given by the respondents for reducing the vacancies is that the requirement of the respondents has decreased on account of the ongoing Covid-19 pandemic. He submits that if at all the decrease of requirement of the respondents is on account of Covid-19, the same is not of permanent nature and the respondents may require the services of all the applicants who have been selected earlier by them in April, 2020 once the Covid-19 will be over. In the aforesaid background, the learned counsel for applicant submits that the impugned notice dated 22.09.2020 may be held as illegal and a direction is required to be given to the respondents to consider the candidature of the applicants, in terms of the result/panel of selection as issued by the respondents vide their earlier result notice dated 21.04.2020.

3. Shri V.S.R. Krishna, learned counsel, who appears for the respondents on advance notice has submitted on



the last date of hearing that the issue raised in the present OA has already been adjudicated by this Tribunal vide order/judgment dated 20.08.2020 in OA No.1031/2020 titled **Sandeep Shakya Vs. DMRC** . In view of the said submission of Shri Krishna, he was accorded time to bring on record a copy of the order/judgment in **Sandeep Shakya's** case (supra). The respondents have brought on record a copy of such order/judgment in **Sandeep Shakya's** case (supra) by way of an affidavit dated 23.12.2020, wherein the respondents have categorically averred that the issue raised in the present OAs is already adjudicated vide order/judgment dated 20.08.2020.

4. We have heard the learned counsel for the parties and also perused the pleadings on record.

5. It is not in dispute that the applicant in **Sandeep Shakya's** case (supra) as well participated in the selection process as an OBC candidate in response to the same advertisement for the post of non executive (Post Code RNE-13) and he was short listed under OBC category. However, later on respondent - DMRC revised the result on 27.07.2020 and it was indicated therein in the result that due to Covid-19 crises, the DMRC activities have been

reduced and as a result, total number of vacancies were reduced, resulting into the non selection of the applicant therein. After considering the facts and circumstances, this Tribunal has held in the order/judgment dated 20.08.2020 as under :-.



*“6. The post based roster scheme was brought into place in accordance with judgment in **R.K. Sabarwal** (supra), as the basis to provide an equitable distribution as per prescribed percentage of reservation granted to OBC, SC and ST candidates on a running basis, and once the roster points indicate that next three vacancies in this post belong to general category, the recruitment has to be necessarily done as per merit order, irrespective of which community the candidate belongs.*

The three shortlisted candidates have secured more marks as compared to the applicant. The applicant does not appear in this merit order. The pleas of discrimination are without any substance.

7. The applicant had also pleaded that if any of the three short listed candidate does not join, he needs to be given the offer of appointment as he was shortlisted earlier on 20.2.2020, is also not acceptable. In such an event, firstly it is for DMRC to decide whether they wish to operate the waiting list in 5 OA 1031/2020 keeping with their requirements, and if so, it has necessarily to be as per the merit order under UR category, as the vacancy belongs to UR category. It is clarified here that while preparing this merit order, the community of candidate is immaterial and the only thing relevant is marks.

Accordingly, this plea of applicant shall have merit only if, this applicant happens to be the next candidate as per the merit order for UR

category. The applicant has not made any such claim. It is noted here that the cutoff for UR category as per the shortlist, is 67.48 out of 100 marks whereas the cutoff for OBC category is 61.837 out of 100 marks and there may be some other candidates who secured marks between 67.48 and 61.837 and they shall have claim for this merit list for UR.”



6. In the rejoinder, Shri Anuj Aggarwal, learned counsel for applicants submits that the result declared by the respondents in April, 2020 be taken into consideration by the respondents for further appointment, as the respondents may require their services once the Covid-19 will be over. In the reply to such submission of the learned counsel for applicant, Shri V.S.R. Krishna, learned counsel for respondents submits that the present selection process is over and the result which has already been superseded by the impugned notification dated 22.09.2020 cannot be kept alive for future appointment, if any. He further submits that if at all at any stage, the respondents may require to fill up certain posts, the same will be considered in accordance with the relevant Recruitment Rules. This aspect has already been considered by this Tribunal in the aforesaid order/judgment dated 20.08.2020, particularly, in para 7 thereof.

7. In view of the aforesaid notification and circumstances, we are of the considered view that in the facts and circumstances and particularly in view of the judgment dated 20.08.2020, the OAs are devoid of any merit. The same are accordingly dismissed.



Pending MAs, if any, shall also stand disposed
There shall be no orders as to costs.

(R.N. Singh)
Member (J)

(A.K. Bishnoi)
Member (A)

/dkm/rk/ns/daya/