

In the Central Administrative Tribunal

(13)

Principal Bench: New Delhi

1. OA No.38/87

Date of decision: 24.07.1992

Avtar Singh

...Applicant

Versus

Union of India & Others

...Respondents

2. OA 43/87

Karam Chand

...Applicant

Versus

Union of India & Others

...Respondents

3. OA 44/87

Nissar Ahmed

...Applicant

Versus

Union of India & Others

...Respondents

4. OA 46/87

Duni Chand

...Applicant

Versus

Union of India & Others

...Respondents

5. OA 96/87

Kanayalal & Others

...Applicants

Versus

Union of India & Others

...Respondents

6. OA 152/87

Karam Chand & Others

...Applicants

Versus

Union of India & Others

...Respondents

7. OA 55/87

Kewal Krishan

...Applicant

Versus

Union of India & Others

...Respondents

Coram:-

The Hon'ble Mr. Justice V.S. Malimath, Chairman

✓ The Hon'ble Mr. I.K. Rasgotra, Administrative Member

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For the Applicants

: None

For the Respondents

: Shri D.S. Mahendru,
Counsel in OA Nos.38/87,
43/87 and 44/87.
: Shri I.C. Sudhir, Counsel in
OA No.46/87
: Shri R.L. Dhawan, Counsel in
OA 152/87

1. Whether Reporters of local papers may be allowed to see the Judgement?

2. To be referred to the Reporter or not?

Judgement (Oral)

(delivered by Hon'ble Mr. Justice V.S. Malimath, Chairman)

None appears for the applicants in these cases.

As these are very old matters we consider it proper to dispose of these cases on merits. As they raise identical issues of law and of fact, they are being disposed of through this common judgement.

2. The applicants in these cases were originally appointed as peons/parcel porters etc. and after some time they were

appointed as Coach Attendants. When they were working

as Coach Attendants they were asked to appear for a

suitability test for regular selection to the cadre of

Coach Attendant. It is in this back ground that the

applicants approached the Tribunal, taking the stand

that they having already been selected and appointed

after medical examination as Coach Attendants, the question

of their being subjected to further selection does not

arise. Hence they sought relief against their being

subjected to another suitability test on the basis that

they must be regarded as having been regularly selected

and appointed as Coach Attendants.

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3. In the reply filed by the respondents the stand taken is that it is no doubt true that the applicants were appointed as Coach Attendants after subjecting them to some sort of selection. But it is contended that the selection was held only by the Superintendent for giving local promotions. The medical test was also held for considering medical fitness for appointment for making adhoc appointments. It is their case that the posts are required to be filled up by a regular selection on a division-wise basis by the Divisional Authorities. The selection process has to be completed by a committee constituted for that purpose. This procedure is spelt out from the Railway Board's letters produced in the cases as Annexures R-1 dated 29.11.1962 and R-2 dated 19.1.1963.

4. If the posts are required to be filled up on a division-wise basis as a result of a selection by a committee in accordance with Annexures R-1 and R-2 and if the applicants have gone through such selection process and then appointed as Coach Attendants they would be justified in taking the stand that they are not required to be subjected to selection test once again. The question for examination is whether the applicants took the test before they were appointed as Coach Attendants in accordance with Annexures R-1 and R-2.

5. The applicants have not placed any material to show that they went through the selection process on division-wise basis as per Annexures R-1 and R-2. On the contrary,

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the material produced by them supports the case of the respondents that the process of selection to which the applicants were subjected to was by a lower authority ^{station} the Superintendent and for the purpose of making adhoc arrangements on a temporary basis. The applicants themselves have produced the office order by which they were given appointments as Coach Attendants. The order says that they are promoted purely temporarily against such vacancies in local arrangement and will not entitle them for any claim in the joint seniority. The notice requiring the applicants to appear for medical examination also says that the selection ^{made was} purely on temporary basis and that the selected staff shall have no claim of seniority in the capacity of Coach Attendants. We, therefore, have no hesitation in accepting the stand of the respondents that the selection of the applicants was only by the lower authority of Station Superintendent. The test that was taken by the applicants was also not of the standard prescribed by Annexures R-1 and R-2. It was also not held by the authority specified in the said Annexures. That is the reason why the applicants were given an opportunity to appear for the regular test on division-wise basis. The list of persons selected for such test includes the names of the applicants in the remarks column against them it is stated that they are locally officiating Coach Attendants. They are so described because their appointments were purely on local basis by way of adhoc and temporary arrangement. We, therefore, have no hesitation in holding that the applicants temporary appointments were not made by a regular selection in accordance with ✓ rules, governing the selection process. Hence they could

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not claim right to the posts of Coach Attendant without earning the said right by/qualifying themselves in the suitability test, which they were offered to take in accordance with the relevant rules. We, therefore, see accordingly no good grounds to interfere in these cases and /these cases, are dismissed. No costs.

Let a copy of this judgement be placed in all the case-files, listed above.

(I.K. Rasgotra)
Member(A)

(V.S. Malimath)
Chairman

July 24, 1992.

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Defender to be true copy

[Signature]
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Court Officer
Administrative Tribunal
Civil Bench, New Delhi
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