

Central Administrative Tribunal
Principal Bench, New Delhi

12

Regn. No. OA-788/87

Date: 11.8.1989

Shri Mehar Chand & Ors. ,,,, Applicants

Versus

Union of India & Ors. Respondents

For the Applicants Shri V.P. Sharma, Advocate

For the Respondents Shri O.P. Kshatriya, Advocate

CORAM: Hon'ble Shri P.K. Kartha, Vice-Chairman (Judl.)
Hon'ble Shri M.M. Mathur, Administrative Member.

1. Whether reporters of local papers may be allowed to see the judgement?
2. To be referred to the Reporter or not?

(Judgement of the Bench delivered by Hon'ble
Shri M.M. Mathur, Administrative Member)

The applicants, who are Signallers working in the Northern Railways, Rewari, filed this application under Section 19 of the Administrative Tribunals Act, 1985, praying that the respondents be directed to post them as Guards 'C'.

2. This Tribunal passed an interim order on 25.3.1988 to the effect that any appointment made to the post of Guard 'C' to which the application is related, will be subject to the outcome of the main application.

3. The facts of the case are not undisputed. The case of the applicants is that they were initially appointed as Signallers. There was a proposal in the Railways to reduce the number of Signallers in stages. Those who were rendered surplus pursuant to this policy, were to be absorbed in the post of Guards. The applicants underwent medical examination and training for Guards and were declared successful. Orders were issued to appoint

16

.....2...

13

them as Guards. Some of them worked as Guards for short periods. However, the respondents have not put them on duty as Guards and their services are being utilised in other capacities.

4. The case of the respondents is that the absorption of Signallers as Guards was subject to the surrender of posts of Signallers, which has not been effected. As the posts of Signallers were not surrendered, there was nothing improper in utilising the services of the applicants in their substantive category of Signallers. Besides, Signallers have no channel of promotion in the category of Guards.

5. The respondents have also relied upon the judgement of the Jodhpur Bench of this Tribunal in OA-89/87 (Shri Ashok Sharma Vs. Union of India & Others) decided on 29.8.1988. In that case, the applicant had prayed for quashing the impugned order dated 9.1.1987 and sought a direction to the respondents not to absorb and promote Signallers in the category of Guards, affecting the seniority of the applicant. By virtue of the impugned order dated 9.1.1987, 11 Signallers were nominated for the post of Guard and they were to be deputed for training for that purpose. The respondents filed a reply in which they stated that 39 Signallers were retained in their category as Signallers and as such, the question of their absorption as Guards did not arise. In view of the statement made by the respondents, the Jodhpur Bench of the Tribunal held that the grievance of the applicant did not survive and on that ground, rejected the application as having been rendered infructuous.

[Signature]

.....3....

14

6. We have carefully gone through the records of the case, including the written arguments submitted by both sides. The learned counsel for both the parties submitted that they did not wish to address oral arguments in this case. The respondents have pointed out that there is no channel of promotion from the post of Signallers to Guards and each category has its own line of promotion. Signallers can look forward to promotion as Senior Signallers and Head Signallers. In the case of Guards, 15 per cent of the posts are filled by direct recruitment and the remaining 85 per cent by promotion from Trained Clerks (31%), T.Cs. (10%), Commercial Clerks (10%), Shunting Jamadar/Shunting Master (17%), Cabinman/Switchman (7%) and Assistant Guards (10%).

7. In view of the above, the applicants have not been promoted as Guards, which is not in their line of promotion. They could come only under the direct recruitment quota of 15 per cent subject to the availability of vacancies. There is force in this contention. In case, Signallers are also to be considered for promotion, the relevant recruitment rules will have to be amended and that too, only prospectively. Similarly, if the direct recruitment quota has to be increased, that also would require amendment of the relevant recruitment rules.

8. The respondents have stated that their earlier proposal to surrender 39 posts of Signallers has not been implemented. It is only when the posts of Signallers are surrendered and the incumbents become surplus, the question of their absorption in other categories would arise. The applicants have not drawn our attention to any document to show that the posts of Signallers in which they have been appointed, have been surrendered and that they have

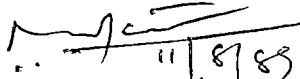
M


15

been rendered surplus.

9. The respondents have stated in their counter-affidavit that as and when it is decided by the Railways to close telegraph offices in Bikaner Division, their staff of Signallers will be absorbed in the available vacancies of various jobs like ASM, TNC, etc. In our opinion, as the applicants were selected to undergo training as Guards and as all of them have successfully completed the training, the respondents should consider their suitability for appointment as Guards against the direct recruitment quota along with the other candidates from the open market. Till the posts of Signallers are surrendered and the incumbents are rendered surplus, it will, however, be open to the respondents to continue to assign duties of Signallers or other duties to the applicants in accordance with rules and the exigencies of service.

10. In the light of the above, the respondents are directed to consider the suitability of all the Signallers who have been rendered surplus and who possess the requisite qualifications for appointment as Guards against the direct recruitment quota, along with the other candidates. The application is allowed to the extent indicated above. The parties will bear their own costs.


(M.M. Mathur)
Administrative Member


(P.K. Kartha)
Vice-Chairman (Judl.)