

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

DA 1561/1990

New Delhi, this 16th day of February, 1995.

Hon'ble Mr. Justice S.C. Mathur, Chairman
Hon'ble Mr. P.T.Thiruvengadam, Member (A)

1. Jai Narain, s/o Laxmi Narain
2. Kishori Lal, s/o Ram Chandra
3. Ganpat Singh, s/o Shri Harnath
4. Tikam Chand, s/o Teloka Ram
5. P.M. Bhaskaram, s/o Shri Padmanabhan
6. Mohd. Tariff, s/o Nafis Ahmad
7. Arjun Dass, s/o Lala Ram
8. Ram Dass, s/o Boop Lal
9. Kanahaya Lal, s/o Chatur Bhuj
10. Satya Narain, s/o Rughu Ram
11. Bhagwan Dass, s/o Man Mohan Pd.
12. Chand Ratan, s/o Ganga Dass
13. Kashi Ram, s/o Suraj Karan
14. Mangu Lal, s/o Gordhan Dass
15. Mehmood, s/o Hazi Mauj Deenji
16. Arun Singh, Bnom Singh
17. Sohan Singh, s/o Bhadoo Singh
18. Bhura Ram, s/o Gopi Lal
19. Shiv Chand, s/o Nanak Chand

(All employees of Northern Railway
Workshop, Lalbagh, Bikaner)

.. Applicants

By Advocate Shri Rajinder Singhvi)

Versus

Union of India, through

1. Secretary
Railway Board, Rail Bhawan
New Delhi
2. General Manager, Northern Rly
Baroda House, New Delhi
3. Chief Personnel Officer
Northern Railway
Baroda House, New Delhi
4. Chief Workshop Engineer
Northern Railway
Baroda House, New Delhi
5. The Financial Advisor &
Chief Accounts Officer
Northern Railway, New Delhi
6. Deputy Chief Mechanical Engineer
(Workshop), Northern Railway
Lalbagh, Bikaner, Rajasthan

.. Respondents

(By Advocate Shri P.S. Mahenaru)

ORDER

(By Shri P.T.Thiruvengadam)

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(15)

The applicants were appointed as Khalasis in Bikaner Workshop and in course of time got posted as Office Clerks/ Material Clerks in Grade Rs.260-400. In the year 1979, when 30 posts of Junior Progressmen in Grade Rs.330-480 were created, the 19 applicants herein were posted in these posts. The applicants had been representing for further promotion and were seeking separate cadre for Junior Progressmen (JPM). The posts of JPM were being operated in Production Control Organisation. The stand of the respondents was that PCO is required to be manned by technical staff with shop floor background. There was a need for periodical updating and extension of shop floor practice and hence the respondents were treating the posts in PCO as ex-cadre posts to be filled on tenure basis.

2. The applicants filed OAs 353 to 374 and 478/88 in the Jodhpur Bench of this Tribunal which were disposed of on 28.9.1989 directing the applicants to submit representation to the General Manager, Northern Railway. Accordingly, the applicants submitted representations seeking encadreing and promotional avenues. They had stated that their seniority was being maintained neither with ministerial group nor with any technical group. They had also raised the issue regarding trade test to be given by them in case they were to be linked with the technical cadre. They also pleaded that seniority should be reckoned by their date of posting in Rs.330-580 as JPM. These representations were disposed of by the General Manager vide his letter dated 27.3.1990. The plea for separate cadre of JPM was rejected. The General Manager conveyed his decision that the applicants should be sent back to their own cadre from which they came to the PCO. The applicants were, however, given option for submitting themselves to trade test before qualifying for absorption as

as Artisans on the technical side in shop floor. The applicants did not give option to appear in the technical trade-test. Accordingly, further letters were issued by the Head of the Workshop posting the applicants in their parent cadre as Material Clerks in the grade of Rs.950-1500. These letters are dated 13.7.90 and 28.7.90. This OA has been filed challenging the GM's decision conveyed in his letter dated 27.3.90 and the follow up letters dated 13.7.90 and 28.7.90. Apart from challenging the above letters, further reliefs as given under have also been sought in this OA:

- i) Respondents be directed not to subject the petitioners to trade-test;
- ii) Respondents be directed to create a separate cadre of JPM and give future promotions to the applicants; and...
- iii) In case if there is a necessity to appear for trade-test then the applicants' seniority should be counted in the grade of Rs.1200-1800 from 1.4.72 and safeguard the present pay scale and not reduce the applicants' status.

3. At the time of arguments, the learned counsel for the applicant did not press for the relief relating to creation of separate cadre of JPM.

4. With regard to the relief, enumerated above, regarding trade-test, it is not disputed that option to appear for the trade-test for absorption in the technical side had been given and the applicants did not avail the same.

5. The learned counsel for the respondents argued that the applicants have never functioned as Artisans and the question of absorbing them on the

technical side without the trade test does not arise. The direction in the earlier O.A.s disposed of by the Jodhpur Tribunal were only to the effect that the GM should dispose of the representations. Accordingly, the GM has decided that the applicants could be taken on the technical side in case they successfully pass the trade test. We do not see any reason to interfere with the administrative decisions of the respondents. It is not the case of the applicants that they had acquired necessary technical expertise so that they may not be subjected to trade test. It is also not claimed that functioning as JPM had given them necessary experience as workmen in shop floor.

6. The learned counsel for the applicants referred to the notice issued by the respondents for filling up the posts of JPM by calling for option from Artisans (Annexure 27 & 28). We do not see how the contents of this notice help the case of the applicants. If anything, this notice only indicates that the posts of JPM are to be filled by the staff from Artisan Group. The applicants without technical background have somehow officiated as JPMs against ex-cadre post. This by itself cannot give them a right to get posted in shop floor against technical posts.

7. The learned counsel for the applicants then referred to the impugned orders dated 13.7.90 and 28.7.90 by which the applicants were being repatriated to their parent position on the clerical side as Material Clerks. It was argued that the applicants have worked for more than 15 years as JPM in higher grade and to revert them as Material Clerk in lower grade would be hard on them. It was, however, the stand of the respondents that the applicants had to go back to their parent position since PCO posts are filled only on tenure basis. The instructions issued by the Railway Board on the subject of Production Control Organisation vide letter dated 13.9.84 were quoted. These instructions spell

out that the postings in PCO are on tenure basis and envisage repatriation of staff to their parent cadre at the end of the tenure. In the face of this, there is no case for finding fault with the action of the respondents in reverting the applicants to their own cadre.

8. At this stage, the learned counsel for the applicants argued that the applicants should be allowed the benefit of PCO allowance. We do not find the subject of PCO allowance figuring as one of the reliefs claimed. The case of the applicants is that the respondents are forcing the pace of repatriation only because the applicants had claimed PCO allowance. In the earlier OA filed before the Jodhpur Bench, the respondents had stated in their reply affidavit that if the applicants had not claimed PCO allowance and continued to work at Shop Floor against the ex-cadre post of JPM, the question of reverting them to their parent cadre would not have arisen. It was thus argued that the respondents have taken a biased decision to repatriate the applicants who had put in very long spell in PCO and that at a stage when almost all the applicants are left with hardly one year service. It was mentioned that PCO allowance had been granted for some time but had been subsequently withdrawn.

9. The respondents argued that the applicants do not fulfil the necessary condition for being considered for the grant of PCO allowance. The Railway Board letter dated 22.4.63 had permitted grant of such allowance only for the staff of shop floor when posted in PCO. It was explained that the applicants

do not belong to shop floor but they belong to ministerial group and they were functioning as office clerk/material clerk prior to their posting as JPM. For such staff, PCO allowance cannot be granted. On this aspect also, we find there is no case for interference.

10. The learned counsel for the applicants referred to the following citations:

(i) AIR 1988-SC-1645

(ii) AIC-1988-530

Both the above citations refer to the provision of promotional avenues to staff, who were allowed the option to continue in PCO. In the case before us, the respondents have taken a decision not to keep the applicants in a separate cadre in PCO. Hence the above citations do not assist the case of the applicants.

11. In the circumstances, the OA is dismissed. There will be no order as to costs.

P. T. Thiruvengadam

(P.T.Thiruvengadam)
Member (A)

S. C. Mathur

(S.C. Mathur)
Chairman