

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH, NEW DELHI

OA.No. 1608/91

Date of Decision: 7.8.92

Jai Prakash & Ors.

Applicant.

Shri R.K. Kamal

Counsel for the applicant

Versus

Union of India & Ors.

Respondents

Shri Shyam Moorjani

Counsel for respondents

CORAM:

The Hon'ble Mr. P.K. KARTHA, VICE CHAIRMAN(J)

The Hon'ble Mr. B.N. DHOUNDIYAL, MEMBER(A)

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

2. To be referred to the Reporters or not? *Yes*

JUDGEMENT

(of the Bench delivered by

Hon'ble Member Shri B.N. DHOUNDIYAL)

The 26 applicants in the present OA are in the category of Commercial Inspectors/Station Masters/Yard Masters/Traffic Inspectors/Section Controllers, who were recruited as Apprentices prior to 1987. They are aggrieved by the impugned order issued by the Railway Board on 15.5.87, which denies to them the higher scale of pay of Rs.1600-2660 and which was made applicable only to the post 1987 recruitees. The admitted facts of the case are that 25% of the vacancies in the scale of pay of Rs.1400-2300 / 1400-2600 were filled up through recruitment of Traffic/Commercial Apprentices; 15% by direct recruitment in open market and 10% by Limited Departmental Competitive Examinations. The candidates had to be graduates with additional qualification of a degree in Law prescribed for Commercial apprentices. A Diploma in Rail Transport was regarded as a

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desirable qualification. The Railway Board carried a review and decided that in future, the recruitment of apprentices be made in the higher scale of Rs.1600-2660, the qualification relating to Degree of law for the Commercial Apprentices be dropped and the training period be reduced from 3 years to 2 years. However, it was provided that the apprentices already under training or in respect of whom, panels have already been received from the Railway Recruitment Board, will be absorbed only in the scale of pay of Rs.1400-2300 or 1400-2600. The pre-1987 recruitees were also allowed to appear in the examination with age relaxation upto 50 years for the Limited Departmental Competitive Examination and 45 years for the open mark quota and would not be required to undergo training again.

However, they would have to qualify the final retention test along with their current batch mates and their seniority would be regularised as per normal rules along with other candidates in the batch.

2. Aggrieved by this discriminatory treatment, the pre-1987 batch recruitees submitted a number of representations to the concerned authorities without getting any response. The General Manager, North East Railway also pursued the matter with the Railway Board vide his letters dated 12.2.88 & 12.8.88. The applicants alleged that the discrimination between the two types of recruits is highly arbitrary and will make earlier recruits junior to the later recruits. There has been no change in the required educational qualifications and in fact the Degree in law earlier prescribed as a necessary qualification for the commercial apprentices has now been dispensed with. The period of training has also been reduced from 3 years to 2 years. The post of Traffic Apprentices, forms the feeder cadre for entering into the Group-B services of Traffic cadre and if the later

recruitees are made senior, the earlier ones will never have the chance to be promoted.

3. The respondents have contended that it is for the administrative department to determine upto what level Direct Recruitment should be resorted to. This being a policy matter, the Courts shall not interfere. The relief claimed by the applicants is bound to cause administrative problems, besides serious financial repercussions. They have also claimed that the application is time-barred as the impugned order was issued in 1987 and the application was filed in 1991.

4. The issues raised in this application have already been considered by the various benches of this Tribunal and one of the colleagues of the applicants, Shri P.C. Ojha has already been given relief by the Principal Bench of this Tribunal by Judgement dated 27.11.90 in OA 2053/88 (P.C. Ojha Vs. Union of India). Referring to the earlier decision of the Madras Bench of this Tribunal in OA 322/88 and 488/87 (P. Bright Samuel and Ors. Vs. U.O.I. & Ors), it was held that the impugned order dated 15.5.87 made it clear that the scheme of Traffic/Commercial Apprentices should continue and that these were not two separate services of cadre but one common cadre. There was no justification for depriving those who were recruited earlier to be confined to the lower scale of pay since they were doing the same type of work and similarly qualified. There were no reasons to make the distinction merely on the basis of date of recruitment. The respondents filed SLP in the Supreme Court against the judgement of the Principal Bench in the case of Shri P.C. Ojha, which was dismissed on 11.1.92.

5. We are in respectful agreement with the view held by the various benches of this Tribunal. The argument that extension

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of the same relief to the applicants will have financial repur-
cussion or that the application is time barred, do not hold
good in view of the following observations made by the Supreme
Court in case of Amrit Lal Vs. Collector of Central Excise Delhi,
1975(1) SLR 153:-

"....when a citizen aggrieved by the action of the Govern-
ment Department has approached the Court and obtained a decla-
ration of law in his favour, others, in like circumstances,
should be able to rely on the sense of responsibility of the
Department concerned and to expect that they will be given the
benefit of this declaration without the need to take their grie-
vances to Court."

This principle has been reiterated by this Tribunal in
case of A.K. Khanna Vs. Union of India: ATR 1988 (2) CAT 518
and in many other cases.

6. In the facts and circumstances of the case, we allow the
present OA and hold that the applicants are entitled to be
granted the same scale of pay as that of the Apprentices
recruited from 1987 onwards and are also entitled to fitment
in new pay scales i.e. 1600-2660 from 15.5.87 with all conseq-
uentual benefits. The respondents are directed to implement
these orders within a period of 4 months from the date of service
of this order.

There will be no order as to costs.

(B.N. DHOUNDIYAL)
MEMBER(A)

7/8/82

(P.K. KARTHA)
VICE CHAIRMAN(J)

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