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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI.

O.A.NO. 64/91 and

O.A.No. 61/91

New Delhi, this the 13th day of January, 1995

Hon'ble Shri J.P. Sharma, Member (J)

Hon'ble Shri B.K. Singh, Member (A)

O.A. 64/91

1. Shri Ram Parkash,
s/o Shri Meena Ram,
Cabinman, Railway Station
Etawah.

2. Shri Ram Avadh Tiwari,
Cabinman,
Rly Station, Chunaw.

... Applicants

By Advocate: Shri B.S. Mainee

Vs.

1. Union of India through
the General Manager,
Northern Railway,
Baroda House,
New Delhi.

2. The Divisional Rly Manager,
Northern Railway,
Allahabad.

... Respondents

By Advocate: Shri P.S. Mahendru

O.A.NO.61/91

Shri Johan Ibrahim,
Leverman, Railway Station,
Johi(Kanpur)
under the Chief Yard Master

... Applicant

By Advocate: Shri B.S. Mainee

Vs.

1. Union of India through
the General Manager,
Northern Railway,
Baroda House,
New Delhi.

2. The Divisional Railway Manager,
Northern Railway,
Allahabad (U.P.)

... Respondents

By Advocate: Shri P.S. Mahendru

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Hon'ble Shri J.P. Sharma, Member(J)

In both the original applications the same points of fact and law are in issue and the reliefs claimed by the applicants in these applications are also the same so both the applications are disposed of by a common judgement. The applicant John Ibrahim is the Leverman and the applicants S/Shri Ram Parkash and Ram Avash Tiwari are Cabinmen. They are posted in the Northern Railway at different stations. From the post of Cabinmen, the next promotional post is Switchman grade s.1200-2040 and that is by way of selection. After passing the selection, the successful selected panel candidates are sent for Zonal Training School for P-1 course. After passing the P-1 course, appointment is given to the next post of Switchman. A written test for the selection for the post of Switchman was held in February, 1967 at Allahabad Division which was followed by viva voce test in May 1967 and 105 candidates were declared successful and they were sent in batches to Zonal Training School, Chandausi. The applicant John Ibrahim attended the Zonal School course from 15.2.68 to 19.4.68 while the other applicants joined the school course from 16.12.67 to 10.2.68. All the applicants were declared successful. (Annexure-4) of both the applications. The order of promotion of the applicant was not issued and only 53 employees were given appointment to the post of Switchman. The respondents went on with the fresh selection in 1988 and those subsequently selected were also sent for Zonal Training school, Chandausi for P-1 course. Promotion order had also

been issued in the case of those who were placed in subsequent panel. Similarly, another selection was held in the year 1989 and the same process was repeated. Even in the year 1990 another batch of 43 candidates were selected and were sent for training to the Zonal Training School, Chandausi for P 1 course.

2. The grievance of the applicants is that inspite of the fact that they have been empanelled and passed the P-1 course in the selection which was held in 1987, they had not been promoted to the post of Switchman in the grade of s.1200-2040. The applicants in both the applications have prayed for the grant of the reliefs and the respondents be directed to promote the applicants from the date from which their juniors have been promoted and given them the benefit of fixation of pay as well as arrears of pay from the date from which they ought to have been promoted.

3. The respondents in both the cases have filed the similar counter reply opposing the grant of the reliefs prayed for by the applicants. It is stated that the post of Switchman is a selection post which is filled through written test and vive voce. Cabinman, Levermen Grade I and II with minimum 5 years of regular service are eligible to appear in the selection. On being placed on panel of Switchman, they must pass P-1 course from the Zonal Training School, Chandausi, which is a pre-condition for promotion to the post of Switchman. Such qualified successful Cabinmen are given posting during the currency of the panel. It is also stated that as the life of the panel has exhausted, subsequent selections were held and since the applicants could not take subsequent selection in the years 1988, 1989 and 1991, they could not be empanelled.

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and as such they have no claim for promotion.

4. We have heard the learned counsel for the parties at length and perused the records.

5. The learned counsel for the applicant has placed reliance on a judgement in O.A.29/90 and O.A.358/90 decided by the Principal Bench on 24.7.90. In those cases a common judgement was delivered where the petitioners also belong to the penal of Switchman declared after the selection. In O.A.29/90, there were 16 applicants and in O.A. 358/90, there were 7 applicants. That case was also contested by the respondents and Shri Inder-jit Sharma and Smt. Shashi Kiran appears for the respondents. The Tribunal after considering the rival contentions allowed the application with the following directions:-

"After carefully considering the matter and the rival contentions, we are of the view that applicants who had qualified in P-1 course after selection in 1987 should have been appointed as Switchman in the grade of Rs.1200-2040 from the date they qualified P-1 course, before holding fresh selections. There was no justifiable ground to restrict the appointment to only 53 of the qualified candidates. Accordingly, we order and direct that the applicants should be appointed from the date of their passing the P-1 course to the post of Switchman and they be given notional fixation of pay from that date, or the date their juniors were appointed, whichever is earlier."

6. The learned counsel for the respondents did not dispute this proposition that the promotion was given to those applicants and in fact mentioned this fact in para 4.8 of the counter.

7. In view of the above facts and circumstances, the case of the applicants is similar and they are

entitled to the relief only on the basis of having successfully passed the P-1 course in the Zonal Training School at Chandauli. The date of passing of each of the applicants will determine the eligibility for promotion to the post of Switchman. They can only be given the benefit of promotion from the date any of his junior in the said batch of P-1 has been promoted. That promotion will be subject to only on verification of the records as to whether they have passed the said course within 2 attempts as prescribed under the rules. If it is a fact then the applicants shall be given promotion only on notional basis u.e.f. the date a junior in the particular batch has been promoted of the same discipline to which the applicants belong. Their pay shall be fixed notionally in the grade of Switchman grade Rs.1200-2040 from such a date. They will get the actual benefit only from the date when they are appointed and join the post of Switchman in the aforesaid grade.

8. The application is disposed of accordingly with no orders as to cost. A copy of the judgement be placed in the other file.

(B.K. SINGH)
MEMBER(A)

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(J.P. SHARMA)
MEMBER(J)