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**CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI**

OA NO. 1958/2004

This the 27<sup>th</sup> day of February, 2007

**HON'BLE SH. KULDIP SINGH, VICE CHAIRMAN (J)**  
**HON'BLE SMT. NEENA RANJAN, MEMBER (A)**

1. Krishan Kumar  
S/o Data Ram  
JE-II (Mech)  
Northern Railway,  
Delhi Division,  
Railway Station Delhi.
  2. Anand Kishore  
S/o Dayal Ram  
JE-II (Mech)  
Northern Railway,  
Delhi Division,  
Railway Station Nizammuddin.
  3. Rajendra Prasad  
S/o Roop Lal  
JE-II (Mech)  
Northern Railway,  
Delhi Division,  
Railway Station New Delhi.
  4. Dharam Pal Singh  
S/o Ami Chand  
JE-II (Mech)  
Northern Railway,  
Delhi Division,  
Railway Station Jeend.
  5. Jasbir Singh  
S/o Rai Singh  
JE-II (Mech)  
Northern Railway,  
Delhi Division,  
Railway Station New Delhi.
  6. Basti Ram  
S/o Jhoota Ram  
JE-II (Mech)  
Northern Railway,  
Delhi Division,  
Railway Station Shakur Basti.
  7. Krishan Kumar  
S/o Baru Ram  
JE-II (Mech)  
Northern Railway,  
Delhi Division,  
Railway Station Shakur Basti.
  8. Brij Lal Yadav  
S/o Ram Abhilekh
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JE-II (Mech)  
Northern Railway,  
Delhi Division,  
Railway Station Tuglakabad.

9. Krishan Madan  
S/o Jai Nath Singh  
JE-II (Mech)  
Northern Railway,  
Delhi Division,  
Railway Station Tuglakabad.
10. Virendra Kumar  
S/o Hubba Lal  
JE-II (Mech)  
Northern Railway,  
Delhi Division,  
Railway Station Nizamuddin.
11. Prahlad Singh  
S/o Prem Pal Singh  
JE-II (Mech)  
Northern Railway,  
Delhi Division,  
Railway Station Nizamuddin.
12. Prem Pal Singh  
S/o Har Chandi  
JE-II (Mech)  
Northern Railway,  
Delhi Division,  
Railway Station Nizammuddin.
13. Ganga Lal  
S/o Sh. Krishan  
JE-II (Mech)  
Northern Railway,  
Delhi Division,  
Railway Station Tuglakabad.
14. Satwant Singh  
S/o Sardar Pal Singh  
JE-II (Mech)  
Northern Railway,  
Delhi Division,  
Railway Station Delhi.

(By Advocate: Sh. M.K.Bhardwaj with Sh. A.K.Bhardwaj)

Versus

Union of India and others through

1. General Manager  
Northern Railway,  
Baroda House,  
New Delhi.
2. The Divisional Railway Manager,  
Northern Railway,  
Delhi Division,  
Near New Delhi Railway Station

New Delhi.

3. The Divisional Personnel Officer,  
DRM's Office,  
Northern Railway,  
Delhi Division,  
Near New Delhi Railway Station  
New Delhi.
4. Santu Singh  
S/o Sh. Hira Singh  
Artisan Gr.I, C&W Department,  
Delhi.
5. Diwan Singh  
S/o Sh. Harphool Singh  
Artisan Gr.I, C&W Department,  
Delhi.

(By Advocate: Sh. V.S.R.Krishna for official respondents  
Sh. Yogesh Sharma for private respondents)

ORDER

Hon'ble Sh. Kuldip Singh, Vice Chairman (J)

Applicant has filed this OA assailing the order of Annexure A-1 passed by respondent in pursuance of directions issued by this Tribunal in OA-324/2003. Vide impugned order a provisional panel issued vide letter dated 14.5.2003 in pursuance of notification dated 11.11.2002 was quashed and the same was therefore withdrawn.

2. Respondent vide their letter dated 11.11.2002 issued a notification for holding a selection for the post of JE-II C&W grade Rs.5000-8000 (RPRS) against 25% promote quota. The candidates are stated to have been called from different categories, i.e., Artisan Grade-I & II, including MCM grade etc. with three years service as on 30.10.2002 working on C&W Depots of Delhi Division. Applicants in the present OA were selected for the said post of JE in terms of the aforementioned rules. However, respondent No.4 & 5 had challenged the selection of the applicants on the post of JE-II on the ground that candidates not more than three times the number of staff to be empanelled could have been called for selection as per rule 215 of IREM. The present applicants submit that the selection was not governed by Rule 215 but the same was governed by Rule 219 (i) as candidates from different categories for whom the post of JE-II is available were called for selection. Thus, it is submitted that the order passed by the Tribunal was itself bad. It is further stated that respondent No.4 & 5 referred to wrong provisions of IREM which were not applicable and respondent No.1, 2 & 3 did not

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defend the case properly and did not invite the attention of the court to the correct rule position i.e. para 219 (i) of IREM. It is further submitted that in the said OA applicants were not made party and they could not be made aware of the same. Though a review petition was filed but the same was dismissed. Now the respondent had withdrawn the panel issued in pursuance of the said selection conducted by the respondents and the withdrawal of the panel is liable to be quashed.

3. The official respondents as well as the respondents No.4 & 5 who were petitioners in the earlier OA are also contesting the OA. The official respondents submitted that the selection was conducted as per the selection contained in para 142 (1) of IREM and all the artisans of all trades in C&W department working in grade-I & II including the MCM grade with three years service were eligible for selection to the post of JE-II subject to their minimum educational qualification of Standard VIII. Official respondents also submitted that rule 215 of IREM relied upon in the earlier case was not applicable. It is also submitted that respondent No.4 Sh. Santu Singh did not appear in the selection and he was found absent in the selection and respondent No.5 though appeared but failed in the selection. Thus having appeared in the selection and having been declared failed they have no right to challenge so the Tribunal could not have quashed the panel as it was done in OA-324/2003. As regards the present circumstances, it is stated that they have suppressed the material fact that they have already moved High Court of Delhi vide writ petition No.15017/2004 wherein certain directions were passed. So once they were already failed they cannot file the present OA.

4. The private respondents are also contesting the OA. In their separate reply they have submitted that in the earlier OA decided by this Tribunal Rule 215 (e) had been correctly followed and the order passed by the Tribunal had been implemented after a contempt petition was filed against the respondents and as such the present OA filed against the compliance of the judgment of the Tribunal is not maintainable. The private respondents submits that para 219 (1) of IREM is not applicable, i.e. applicable only in case where the selection is for general post and post from diverse fields are included for the selection post in promotion quota and in this case since the post of the same cadre i.e. Artisans cadre have been included so only para 215 applied. As such it is submitted that the OA should be dismissed.

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5. We have heard the learned counsel for the parties and have gone through the record.

6. At the outset we may mention the selection for notification was issued on 11.11.2002 vide Annexure A-4. The said notification was issued as per paragraph 142 of the IREM which reads as under:-

#### **TRAIN EXAMINERS**

142. (1) The vacancies in the category of Train Examiners in scale Rs.1400-2300 will be filled as under:-

(i) 40% by direct recruitment as Apprentice Train Examiners through the Railway Recruitment Boards;

(ii) 20% by Intermediate Apprentices from amongst serving Matriculate employees with three years service in skilled grade(s) and below 45 years of age; and

(iii) 40% by promotion by selection. If the selection/supplementary **selected from amongst Mistries/Skilled Grade I & II** fails to provide enough candidates, another supplementary selection from amongst skilled grades (with 5 years service in skilled grades and 8<sup>th</sup> class qualification or with 3 years service and Matriculation) will be held the condition regarding qualification applying to staff in skilled grade III. (emphasis supplied). (Read 25% instead of 40% as changed later on).

7. In this case we are concerned with para 142 (1) (iii) which provides for 25% promotion by selection from amongst Mistries/skilled grade I & II. It is also pertinent to mention here that the post of Trained Examiners was redesignated as JE-II. Now coming to paragraph 215 which falls in Chapter-II Section-B under the caption of Rules Governing the Promotion of Group 'C' staff. Paragraph 215 (e) is quite important for the decision of the controversies involved in this case as such reproduced herein below.

"215 (e) Eligible staff upto 3 times the number of staff to be empanelled will be called for written and/or viva-voce test. The staff employed against fortuitous short term or stop-gap promotion to the immediate lower grade in the manner otherwise than in accordance with the regular approved method of promotion will not be eligible for consideration. It is desirable to hold written test as part of a selection in respect of all initial selection grade post in the different channels of promotion, but in every case a viva-voce test shall be held. If a written test is proposed to be held, advance intimation shall be given to all eligible candidates."

8. Para 219 speaks of procedure to be adopted by Selection Board and for the purpose of controversy in the present case para 219 (i) is quite relevant which reads as under:-

"(i) For **general posts** i.e. those outside the **normal channel of promotion** for which candidates are called from **different categories** whether in the same department or from **different departments**, the selection procedure should be as under" (emphasis supplied)

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9. To attract para 219 (i) it is to be seen whether the posts in question are general posts, i.e. those outside the normal channel of promotion or not. In this regard we will have to refer back to para 142 which is in Chapter for Transportation (Power) Department and para 142 deals with Train Examiners and provides that how the vacancies in the category of Train Examiners (now called JE-II) in the scale of Rs.1400-2300 are to be filled. Para 142 (1) (iii) provides 25% by promotion by selection if the selection supplementary selected from amongst Mistries skilled grade I & II fails to provide enough candidates in supplementary selection from amongst skilled grades so far as the 25% quota on promotion by selection concerned. The reading of this para 142 (3) will go to show that it provides for promotion to Mistries/skilled grades I & II who are from the Artisan cadre. Thus for promotion to the post of Train Examiner (redesignated as JE-II) out of the available vacancies 25% can be filled by promotion from Mistries skilled Grade I & II who in turn come from Artisan, MCM etc. Thus the candidates who were called for promotion to JE-II under para 142 (3) vide notification Annexure A-4 were called from the same department and the same cadre the lowest of which is Artisan and who were eligible under 25% quota for promotion to the post of JE-II. Thus the candidates have been called from normal cadre for whom JE-II is in the normal channel of promotion. Para 2 of the notification is also important. It says that in case the selection fail to provide enough number of candidates then another supplementary selection from amongst optee artisans of skilled grades with 3 years service and matriculation as educational qualification, may be held. Thus the notification Annexure A-4 shows that the candidates who have been invited for selection to the post of JE-II C&W grade Rs.5000-8000 are from the same cadre and not from the General cadre as envisaged under Para 219 (i). Para 219 (i) provides selection for the General posts i.e. for the posts outside the normal channel of promotion and candidates are called from different streams. Meaning thereby that the candidates are called from other cadres where they do not have the normal channel of promotion for the said post. In this regard, we may refer to an earlier judgment given by Jodhpur Bench of this Tribunal in case of Bharat Lal and another vs. Union of India and others 2004 (3) ATJ 361 wherein the Hon'ble Tribunal had held, "we find that General posts were stated to be posts outside the channel of promotion for which candidates are called from different departments. This

is the touchstone of deciding the post of Guard whether it is a general post or not as we noticed above that a specific channel has been provided for the post of Guard and candidates belonging to different categories have been held to be eligible for selection on option basis and all those posts have their own regular channel of promotion. The Curt had also mentioned that for the post of Guard applications were invited from five different categories who were eligible and opted to undertake the selection for the post of Guard but it is also observed that all those candidates have their own independent channel of promotion. For example, Ticket Collector who is also eligible for Guard as got the normal channel of promotion for the post of Senior Ticket Collector. Similarly Commercial Clerks have specific channel of promotion, similarly Train Clerks have their own channel of promotion those who were called to undertake the selection for the post of Guard. Thus, it was held that the post of Guard was the general post. As regards the post of JE-II the applications have been invited only under para 142 meant for 25% quota of promotion to the post of JE-II from artisan cadre. So this does not show that if the 25% posts are being filled from the normal cadre which has otherwise a regular channel of promotion to the post of JE that will become a general post. Para 142 also forms part of the Chapter-I of IREM dealing with the heading of Recruitment, Training, Confirmation and Reemployment. Rule 142 provides for the recruitment of Train Examiners JE-II and the source of recruitment is 40% by direct recruitment as Apprentice Train Examiners, 25% for serving matriculate employees and 40% by selection/supplementary selection as already reproduced above. Thus the reading of para 142 would go to show that for recruitment of Train Examiners JE-II 25% quota of promotion selection is to be conducted by way of promotion by selection from amongst Mistries/skilled Grade I & II which was said to be fulfilled under para 142 (1) (iii). The applications are for general posts.

10. The reading of notification dated 11.11.2002 only suggests that the candidates to fill up these posts were called only from one cadre of artisans who could otherwise also be appointed as JE-II depending upon the qualification.

11. The candidate from other department eg. Commercial Department or Catering department etc. were not called. So these posts cannot be said to be general posts. Thus the same could be filled under para 215 and not 219 (i).

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12. In view of the discussion above and in view of the judgment of Hon'ble Jodhpur bench of this Tribunal where it is defined that what is general post we find that the post which were sought to be filled by notification Annexure A-4 dated 11.11.2002 were not the general posts particularly so because it is only the artisans who were eligible to be promoted under 25% quota and the candidates from other cadres were not eligible to apply for the same. Thus, it was only Rule 215 (e) which was attracted and not para 219 (i). So in view of the discussion above, OA is dismissed. No order as to costs.

*Neena Ranjan*

(NEENA RANJAN)  
Member (A)

*Kuldip Singh*

(KULDIP SINGH)  
Vice Chairman (J)

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