

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A. No. 2430/1993

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New Delhi this the 15th day of July, 1999

Hon'ble Shri V.Ramakrishnan, Vice Chairman(A)
Hon'ble Smt.Lakshmi Swaminathan, Member(J)

All India Station Masters
Association(Northern Railway)
through

1. General Secretary, Shri G.B.Bhatt

2. Shri G.B.Bhatt
S/O Shri
Assistant Station Master
Northern Railway Delhi Jn.,
Delhi.

3. Shri S.P.Trivedi,
Station Master, Northern Railway,
Dheerpur.

4. Shri Kartar Singh
Station Master, Northern Railway,
Asaudah(Haryana)

(By Advocate Sh. B.S.Mainee)

.. Applicants

Versus

Union of India : Through

1. The Secretary
Ministry of Railways,
Rail Bhawan, New Delhi

2. The General Manager
Northern Railway, Baroda House,
New Delhi.

3. The Divisional Railway Manager,
Northern Railway, State Entry Road,
New Delhi.

4. Shri Ram Lout,
Yard Master, Northern Railway,
Tughlakabad.

5. Shri Saloti Singh,
Yard Master, Northern Railway,
Tughlakabad

6. Sh. R.P. Sharma,
Yard Master, Northern Railway,
Meerut.

(By Advocate Sh. B.K.Agarwal)

.. Respondents

O R D E R (ORAL)

(Hon'ble Shri V.Ramakrishnan, Vice Chairman(A)

We have heard Shri B.S.Mainee for the applicants and
Shri B.K.Agarwal for the Railway Administration. Applicant No.2

is working as Assistant Station Master and Applicants 3 and 4 are working as Station Masters and applicant No.1 is an association of All India Station Masters(NR) represented by the Secretary-Shri G. B. Bhatt. The applicants are aggrieved by the diversion to the cadre of Yard Master of posts meant for the cadre of Station Master on the basis of restructuring order dated 27.1.1993 as at Annexure A-2 which seeks to remove stagnation in different cadres. They contend that the upgraded posts on the basis of restructuring meant for Station Masters cadre such as Dy. SS/SS have been diverted to a different cadre, namely, the Yard Masters by the impugned letter at Annexure A-1 by ^{the} Divisional Personnel Officer, Northern Railway, New Delhi which bears the date 1.10.1993.

2. Shri B. S. Maine, learned counsel for the applicant submits that the restructuring order was issued to remove stagnation of certain categories. He states that the Railway Board vide letter dated 27.1.93 had fixed certain percentage in the higher posts by reducing the percentage of posts in the lower cadres. As per the letter of the Annexure A-1 ^{the} existing strength of Station Masters as on 28.2.93 in the scale of Rs. 1400-2300 is 10 and in the scale of Rs. 1600-2660 it was 72. There were 59 posts at the level of Dy. SS/SS in the scale of Rs. 2000-3200 and 6 posts of Station Superintendents in the scale of Rs. 2375-3500. This was the position as on 28.2.1993 prior to restructuring that took effect from 1.3.1993. Consequent to the Railway Board circular, the number of posts in the level of Station Masters have been decreased from 72 to 34 all of which are in the scale of Rs. 1600-2660 and the posts in scale Rs. 2000-3200 were to be increased from 59 to 101 in respect of Dy. SS and from 6 to 20 posts in respect of Station Superintendents. This was done to remove the stagnation in the

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cadre of Station Masters. He refers in this connection to the statement in the letter of the Divisional Railway Office, Delhi (NR) which clearly indicates the increase of 42 posts in the category of Dy. SS/SS- the scale of Rs. 2000-3200. The Railway Board different instructions have laid down/percentage of the various levels in the cadre of Yard Masters. Shri Maine states that the Railway Board instructions have been flouted by the DRM(NR) Delhi. In this connection, he has cited few examples, that is, at Sl. Nos. 47, 72, 74, 75, 76, 78, 80 and 81 etc. where the Yard Masters have been promoted as Dy. SS/SS which vacancies are earmarked for Station Masters. He says that DRM has no power to supersede the order of the Railway Board and to give upgraded post of S.M's cadre to the cadre of Yard Masters, snatching away the benefit of upgradation from the category of Station Masters. He also says that the action of the DRM should be set aside, in so far as these orders relating to the promotion of Yard Masters are concerned and prays that appropriate directions may be issued to the respondents in this regard.

3. Shri B.K. Aggarwal, learned counsel contends that the upgraded posts are filled up by positive act of selection. He also refers to the statement of the respondents, particularly paras 4.16, 4.17 and 4.19 in which it has been brought out that the posts of Stn. Supdt./Dy. Chief Yard Masters etc. are selection posts which are filled up on the basis of the joint seniority. Keeping in view of this position, staff from 3 eligible categories working in grade Rs. 1600-2660 (RPS) which included Station Masters, Yard Masters and Train Inspectors on the basis of their seniority were promoted on the basis of modified selection procedure in accordance with the existing channel of promotion.

Mr. Aggarwal also says that if the reliefs sought for by the applicants are granted, it will adversely affect some of the

Yard Masters who have not been made necessary parties in the OA.

4. We have considered the rival contentions. The restructuring orders have been issued for removing stagnation in different cadres. Mr. Mainee submits that Station Master's cadre is distinct from Yard Masters and the posts of Dy. SS/SS are to be filled up from the cadre of Station Master. The respondents have referred the joint seniority of S.Ms/Y.Ms and Train Inspectors for promotion to the level of Dy. SS in the grade of Rs. 2000-3200. The question of joint seniority will be relevant if the post of Dy. SS can be filled up from amongst S.M., Y.M and T.I. ^{and} if they are feeder cadres. Obviously, this is not the position as the break up of posts given in the first page of the impugned order as also the reply statement of the respondents at para 4.16 clearly shows that the S.M. only can become Dy. SS and SS. There were 155 posts in the cadre of Station Masters as on 28.2.93 which have been maintained even after restructuring but with increase in the number of posts at the higher level and reduction / the number of post in the lower grade. The position regarding Yard Master was that there were only 142 posts which have been maintained after restructuring but number of posts at the higher level has come down. This would show that at the Delhi Division, there was no stagnation at the level of Yard Masters and the restructuring order has not been of any help to them unlike in the cadre of S.Ms. Once it is found that the post of Dy. SS is meant only for Station Masters, the same could not have been diverted to the Yard Masters. We may refer to para 1.2 of the Railway Board circular dated 9.2.94 is at Ann.6 which reads as follows:-

"The matter has been examined and it is clarified that-

- (i) In para 1 of the letter dated 27.1.93 it has been clearly stated that the restructuring will be with reference to the cadre strength as on 1.3.93.
- (ii) Since one of the purposes of cadre restructuring is to remove the stagnation in the cadre, the benefit of the cadre restructuring should be restricted to the persons borne on the particular cadre on the cut off date."

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It is amply clear from these instructions that promotion to the level of Dy. SS/SS ought to have been given to the feeder category which in this case will be the Station Masters whereas the Yard Masters have been promoted as Dy. SS which is not permissible. Apparently DRM Delhi diverted the posts of Dy. SS to the Yard Masters on the ground that number of them were holding the posts in the grade of Rs. 2000-3200 as Dy. SS on ad hoc basis.

5. As regards Mr. Aggarwal's contention that the applicants have not made Yard Masters as necessary parties in the OA, we note that the relief sought for by the applicants is against the ^{want} Railway Administration as they/DRM Delhi to follow instructions of the Railway Board circular. The relief is not against individual Yard Masters who have been given the posts of Dy. SS. As such in the light of the law laid down by the Supreme Court in Janardhan's case we hold that the omission to implead some of the Yard Masters who have been wrongly given the post of Dy. SS does not in any way amount to non-joinder of necessary parties.

6. In the light of the above position this OA is allowed and disposed of with the following directions:-

(i) Divisional Office, Delhi will take immediate action to fill up the promotion posts of Dy. SS/SS restricting the same only to the Station Masters and follow the procedure laid down by the Railway Board and appoint such of eligible Station Masters to the grade of ^{DY SS/SS}. As they were not physically holding the post of DY SS, their pay may be fixed notionally w.e.f. 1.3.1993 and they will be entitled to financial arrears only from the date of actually assuming the charges.

(ii) No recovery shall be effected from the Yard Masters

who had been promoted as Dy. SS and had actually performed the duties of the higher post on the basis of their appointment to the grade of Rs. 2000-3200.

(iii) These directions shall be complied with by the respondents within two months from the date of receipt of a copy of this order.

(iv) No costs.

Lakshmi

(Smt. Lakshmi Swaminathan)
Member (J)

Ramakrishnan

(V. Ramakrishnan)
Vice Chairman (A)

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