

RESERVED

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH,
ALLAHABAD

DATED: THIS THE 5th DAY OF MAY 1999

Coram: Hon'ble Mr. S. Dayal, Member(A.)

Hon'ble Mr. S.K. Agarwal, Member(J.)

Original Application No. 991/96

1. M.M.A. Siddiqui
s/o Sri Late Prof. M.A. Siddiqui
r/o 116 Shahganj, Allahabad
2. Nand Lal
s/o Sri Dwarika Prasad,
r/o 287, Faitful Ganj, Kanpur.
3. H.R. Pandey,
s/o Sri A.P. Pandey,
r/o 293-B-CPC Railway Colony, Kanpur.
4. Afzal A Khan
s/o Sri S.A. Khan,
r/o 47, C.P.C. Railway Colony, Kanpur.
5. Rajesh Kumar Sharma
s/o Sri Kali Charan Sharma,
r/o 1/6 A.B. Railway Hospital Road,
Tundla.

Counsel for the Applicants:- Sri Sudhir Agarwal, Adv.

. . . Applicants.

Versus

1. Union of India
through Secretary of Ministry of Railways,
Baroda House,
New Delhi.
2. General Manager,
Northern Railway,
Baroda House,
New Delhi.
3. Divisional Railway Manager (P)
Northern Railway,
Allahabad.
4. Rajesh Kumar Srivastava,
Chief Booking Supervisor,
Allahabad Station.

5. Rakesh Kumar Srivastava,
Outstanding Inspector
Allahabad D.R.M.S.(Control Branch)
Allahabad.
6. Chandrika Prasad,
Commercial Inspector,
D.R.M.S. Office (Control Branch)
Allahabad.
7. Sant Ram,
Chief Parcel Supervisor,
Kanpur Station.
8. Uday Veer Singh Prabhakar,
Chief Booking Supervisor,
Tundla Station.
9. Ashok Kumar Gupta
Chief Booking Supervisor,
Kanpur Station.
10. Ram Autar,
Commercial Inspector,
Tundla Station.
11. Lal Bahadur Chauhan
Commercial Inspector
Control Branch
D.R.M. Office Allahabad
12. Hari Shankar Pandey
Chief Parcel Supervisor
Kanpur Station.
13. Vijay Kumar Verma
Chief Parcel Supervisor
Allahabad Station.
14. Dev Narain Dubey
Chief Booking Supervisor
Allahabad Station.
15. Jitendra Varshney
Chief Booking Supervisor
Aligarh Jn. Station.
16. Brij Kishan
Chief Booking Supervisor
(Accounts) Kanpur Station.

17. Vinod Kumar
Chief Goods Superintendent
Shikohabad.

. . . Respondents.

Counsel for the Respondents: Sri Arvind Kumar, Adv.
Sri A.K. Gaur, Adv.

Order

(By Hon'ble Mr.S. Dayal, Member (A.)

This application has been filed by five applicants who have prayed for the following reliefs:-

- (i) Respondents be directed to comply the provisions of Railway Establishment Manual Para 302 and 306.
- (ii) To set aside the order dated 20.6.1997
- (iii) To issue a mandamus directing the respondents No.1 and 2 and 3 to determine the seniority of the applicants in accordance with the rules by treating the applicants senior on the post of Commercial Apprentices qua respondents no. 4 to 17 and to prepare seniority list accordingly with all consequential benefit benefits of promotion etc. from the date juniors have been allowed such benefit.
- (iv) Applicants should not be treated juniors to those who have selected departmentally, subsequently.
- (v) Applicant be given consequential benefits relating to finance and promotion.

2. The short dispute in this O.A. is that the applicants who are Commercial Apprentices recruited by the Railway Recruitment Board against 15% quota have been assigned a seniority lower than Commercial Apprentices recruited by Departmental Selection Board against 10% quota by limited departmental competitive examination from amongst

serving Graduates in Commercial Department upto 40 years of age. This has been done despite the fact that those recruited against 10% quota who are respondents in this case were selected on 16.6.83 and were sent for training thereafter while the applicants were appointed on 28.8.83. It is claimed by the applicants that both the are recruited as direct recruits under the same Recruitment Rules stipulating the same conditions for those recruited through Railway Recruitment Board and those recruited by Departmental Competitive Examination. The applicants have represented against the assignment of lower seniority to them and their representation has been rejected by the respondents.

3. The arguments of Sri Sudhir Agarwal for the applicant, Sri A.K. Gaur for official respondents and Sri Anand Kumar for private respondents have been heard. The pleadings on record have been taken into account.

4. The applicants have relied on the provisions of paragraph 302 and 306 of Indian Railway Establishment Manual, Volume I. Rule 302 of the Manual states that seniority among the incumbents of a post in a grade is governed by the date of appointment to the grade. In categories of posts filled partly by direct recruitment and partly by promotion, the criterion for determination of seniority should be the date of regular promotion after due process in the case of promotees and the date of joining the working post after due process in the case of direct recruits subject to maintenance of interse seniority of promotees and direct recruits among

themselves. Paragraph 306 of the Manual provides that candidates selected for appointment at an earlier selection shall be senior to those selected later irrespective of the dates of posting except in the case covered by paragraph 305. Paragraph 305 relates to candidates whose seniority is to be determined under paragraph 303 and 304. Paragraph 303 of the Manual provides that candidates who are sent for initial training to Training Schools will rank in seniority in the relevant grade in the order of merit obtained at the examination held at the end of training period before being posted against working post. It is also provided in Rule 303 that the candidates who do not have to undergo any training in Training Schools, the seniority shall be determined on the basis of the merit order assigned by the Railway Recruitment Board or other Recruiting Authority. Rule 304 relates to candidates declared to be of equal merit and is not relevant here.

5. The respondents have shown in their counter reply that training has been prescribed for those recruited against 15% quota as Commercial Apprentices and those selected against 10% Graduate Quota as Commercial Apprentices for ~~62~~² weeks period of 104 and 67 weeks respectively. The trainees selected against 10% Graduate Quota were exempted from training in the branch in which he had worked earlier during his service. The trainees against 10% Graduate Quota were required to take an examination at the end of their training period.

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In these respects both the categories were comparable except for duration of the training period. The term commercial apprentice is also applicable to both of them. But the contention of the applicants that because of these similarities, the commercial apprentices included through limited departmental competitive examination should also be treated as direct recruits and should be subject to the same conditions as have been laid down for directly recruited commercial apprentices under paragraph 130 of I.R.E.M. can not be accepted. It is quite clear from a perusal of paragraph 130 of I.R.E.M. that duration of training of two years has been prescribed for directly recruited commercial apprentices only. The applicant's contention that paragraph 306 is relevant for determination of their seniority vis-a-vis the candidates selected through limited competitive departmental examination can also not be accepted. In Kuthiyappan Versus Union of India and others 1997 S.C.C.(L. & S.)83, it has been made clear that paragraph 306 of I.R.E.M. is not relevant for determination of seniority in such a case. It is also laid down in this case that the date on which they start working after completion of training is the decisive criterion in such a case. Application of this criterion does not give any support to the claim of the applicant for relief.

6. The respondents have shown that there are significant differences between directly recruited commercial apprentices and those included through limited departmental competitive examinations. Paragraph 103 of I.R.E.M. defines apprentice as

"a person undergoing training with a view to employment in Railway Service, who draws pay, leave salary, subsistence allowance or stipend claiming such training but is not employed in or against a substantive vacancy in the cadre. . On satisfactory completion of his training he is eligible for appointment on probation in a substantive vacancy but no guarantee of such employment is given." "Direct recruitment" has been defined as recruitment to Group C Service of any person not already in the service of the railways or a railway servant who possesses requisite qualifications and is permitted to apply for appointment along with outsiders subject to the procedure laid down for recruitment. This status becomes clear from a perusal of agreement ~~for~~ which a directly recruited commercial apprentice is made to enter into with the railway administration. This agreement shows that the status for the first two years is that of an apprentice who gets monthly stipend subject to satisfactory conduct and performance and termination on account of insubordination, intemperance and/or misconduct of any other type or failure to meet the medical standards. The offer of appointment of apprenticeship to directly recruited commercial apprentice makes it clear that there is no guarantee or promise of employment on completion of apprenticeship . A division bench of Central Administrative Tribunal Allahabad in O.As. 1232 and 1376 of 1988 decided on 25.11.92 has held that the Graduate Commercial Apprentices recruited by limited departmental competitive examination are promotees This view has been approved by the Apex Court in

its order dated 2.3.94 when it dismissed special leave petition against these two O.As. In Kuthiyappan Vs. Union of India (Supra) such Commercial apprentices have been designated as "regularly promoted in Service candidates".

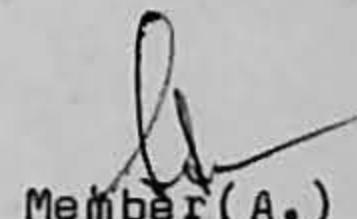
7. In above view of the matter, the impugned order dated 20.6.97 which rejects the application of applicants Sri M.M.A. Siddiqui and Shri H.R. Pandey on the ground that the respondents were appointed on 26.2.85 while the applicants were appointed later on 10.4.85 can not be faulted. The order is consistent with the law laid down by the Apex Court.

8. We, therefore dismiss the O.A. as lacking in merits.

9. There shall be no order as to costs.



Member (J.)



Member (A.)

Nafees.