

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

ALLAHABAD

Original Application No.1128 of 1997

Thursday, this the 28th day of November, 2002

Hon'ble Mr. S. Dayal, A.M.

Hon'ble Mr. A.K. Bhatnagar, J.M.

1. Vijai Kumar (D.O.B. 12.7.1954)
S/o Late Ram Nath,
R/o 185-C Geyatrinager,
Infront of Calton English School,
Line-par, Moradabad.
2. Krishna Kumar Singh
(D.O.B. 12.12.1958),
S/o late Sheoraj Singh,
R/o Qr. No.H 220/JV Rly. Harthla
Colony, Moradabad.
3. Prem Singh, (D.O.B. 3.12.1956)
S/o Bahadur Singh,
R/o Rly. Qr. No. E 55-G, Rly, South Colony,
Line-par, Moradabad.

..... Applicants.

(By Advocate : Shri T. S. Pandey)

Versus

1. Union of India,
through the General Manager,
N. Rly., Baroda House, New Delhi.
2. Divisional Railway Manager,
N. Railway, Moradabad.
3. Sr. Divisional Personnel Officer,
N. Railway, Moradabad.

-..... Respondents

(By Advocate : Shri A. Sthalekar)

ORDER

By Hon'ble Mr. S. Dayal, A.M. :

This application has been filed for a direction
to the respondents to call the applicants to appear in

JS

Contd....2.

the selection of Clerks grade Rs. 950-1500 (RPS) against 33.33% departmental quota as they are fully eligible for the said selection, and to direct the names of the applicants to ^{be} ~~the~~ incorporated in the letter dated 30.9.97 above the names of in-eligible persons, since the applicants have been allowed to and appeared in the written examination held on 25.10.1997. It has also been prayed that a fresh list be prepared and then selection be finalised. The applicants have claimed that they were working as Office Khalasi and possess eligibility required under notification dated 10.5.1996 for selection of Group 'C' employees from amongst the Group 'D' employees. Their names were not included in the list, which was published and [&] eligible employees were allowed to appear in the selection on 24.2.97 and on 30.9.97. It is claimed that although the applicants were wrongly prevented from appearing in the selection although they did work as Office Khalasi, many in-eligible persons were ~~not~~ included in the list, which was published on 30.9.97 for this purpose. It is claimed that persons mentioned at Sl No.24, 27 to 37 and 42 to 56 were not eligible as they did not fulfil the eligibility criteria as indicated in the letter dated 10.5.96 and 24.6.96.

2. We have heard the arguments of Shri T.S. Pandey, counsel for the applicant and Shri A. Sthalekar, counsel for the respondents.

3. The learned counsel for applicant has contended before us that a fresh list should be prepared of those

eligible to appear for selection from Group 'D' to Group 'C' against 33.13% quota and the selection should be finalised only after that. The main reason for contending is that certain ineligible persons have been included in the list of eligible persons published on 30.9.1997. The name of Smt. Suman Lata Sharma at Sl. No.24 is mentioned as one of those ineligible persons and it has been contended that she was regularised in February, 1997 and had not completed 3 years before the selection was held.

4. This has been contested by learned counsel for respondents who has stated that Smt. Suman Lata Sharma was appointed on compassionate basis much earlier and had completed more than 3 years before the selection was held. The contention of the learned counsel for applicants with regard to Smt. Suman Lata Sharma as also of those from Sl.No.27 to 37 and from 47 to 56 cannot be accepted because the notification for selection issued on 10.5.1996 included many categories and had also at the end of categories of Group 'D' employees included the word "etc.". Therefore, it cannot be held that the persons included in the list dated 30.9.1997 were not eligible. Besides, the applicants have not impleaded them as respondents in the O.A.

5. The prayer for holding fresh selection made by the learned counsel for applicants is also not tenable because selections have already been held and appointments made. We do not consider it appropriate to disturb the appointments given to the persons selected, especially, in a situation which has been shown in the last paragraph.

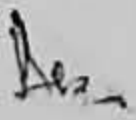
6. The objection of the respondents to the inclusion of applicants in the list of those eligible for selection for promotion from Group 'D' to Group 'C' can also not be accepted. The respondents have made a two-fold contention. The first is that the applicants were not Office Khalasis. The category permitted to be included for selection is that of Khalasis and not Office Khalasis. There is no denial that the applicants belong to the category of Khalasis.

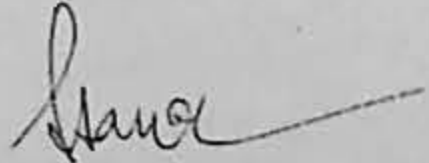
7. The respondents have also stated that the orders contained at Annexures-A1, A-2 and A-3, of appointment of Shri Vijay Kumar as Office Khalasi, Shri Krishan Kumar Singh as Khalasi and Shri Prem Singh as temporary Office Khalasi was not issued by a competent authority ^{which was authorised to} issue the same. Secondly, the channel of promotion of the applicants was different and they were not eligible to be promoted as Office Clerks for which the selection was being held. These contentions are contradictory. The applicants are undeniably working on the posts shown in Annexures-1, 2 and 3. If they were not regularly appointed, they could not be ^{considered} eligible for promotion to any category till their regular appointment was done. This is not the position taken by the respondents. Hence, this argument also is untenable. The applicants have shown in Annexure-15 that in documents like application for temporary labour, the applicants have been shown as Office Khalasis. Since, we have already found from the notification dated 10.5.1996 that the selection was thrown open to a very large number of Group 'D' employees

without any restriction which is now the contention of the respondents, we consider the applicants as eligible for consideration for selection to Group 'C' post notified by notification dated 10.5.1996. It is also interesting to see that the said notification was sent to the members of Oak Grove, School Principals of Regional Training Schools and Higher Secondary Schools, Medical Superintendent and Security Officer, Assistant Engineers, Electrification and Telecommunication Office, Office Superintendent, Central Registry, etc. After that, raising the contention that the employees of these officials are not eligible cannot be sustained.

8. We find that the applicants were allowed to appear at the selection against the 33.33% quota for Office Clerks. By virtue of interim order dated 30.3.1997, their result was ordered to be with-held until further orders.

9. Since the applicants have already appeared, we now order that the results shall be declared. In case, any of the applicants finds a place in the select list on the basis of his performance in the written and interview, he shall be given appointment with seniority from the date of appointment of his junior. There shall be no order as to costs.


MEMBER (J)


MEMBER (A)

psp.