

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Original Application No. 531 of 1997

Allahabad, this the 23rd day of May, 2003

QUORUM : HON.MR.S.K.AGRAWAL, AM
HON.MRS.MEERA CHHIBBER, JM

1. Lalji Tewari s/o late B.P.Tewari Supdt.
2. Gopal Prasad Srivastava s/o Sri B.P.Srivastava "
3. Smt. Philomina Semore w/o Sri late Julius Kujur. "
4. Sri Krishna Kumar s/o Sri Badri Prasad "
5. Raj Kumar Dhal s/o late Manohar Lal "
6. Virendra Bhadur Girihaar s/o Sri Jeewat Ram. "
7. Smt. Shanti Devi w/o Sri M.L.Saral "
8. Bhal Chand Yadav s/o Ambika Prasad Yadav "
9. Rajendra Prasad s/o late Chhottey Lal "
10. P.D.Massey w/o L.D.Massey Head Clerk
11. B.K.Mishra s/o late J.B.Mishra "
12. Smt. Bina Dutta w/o late Keshor Dutt Dubey "
13. Indra Deo Tripathi s/o Sri P.L. Tripathi "
14. Sri Ram Shukla s/o Sri R.K.Shukla "
15. Smt. Arti Das w/o Sri B.Das "
16. Smt. Hushna Begum w/o Sri S.D.Akbar "
17. Ajai Kumar Pandey s/o Sri D.N.P.Pandey "
18. Ramesh Chanda s/o Sri R.S.Verma "
19. Ranjeet Kumar s/o Sri R.S.Tewari "
20. Smt. Firoza Irfan w/o Sri Afaq Ahmad "
21. Smt. Gita Srivastava w/o Sri A.C. Srivastava "
22. Smt. Neelam Katyal w/o Anurag Katiyal "
23. Sudhir Kumar Khera s/o late K.R. Khera "
24. Mohd. Masih Khan s/o late W.M.Khan. "

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25. Smt. Shashi Bala w/o Sri Rakesh Sinha Head Clerk
 26. Hemant Kumar Rangani S/o late Sobhraj "
 27. Abdul Nasir S/o Sri Abdul Majid "
 28. Kumkum Pal s/o X late P.K.Pal. "
 29. Maboob Ahmad s/o Sri Mohd. Ahmad. "
 30. Smt. Prem Lata Srivastava w/o Ashok Kumar Srivastava. "
 31. Kumari Ranjana Srivastava D/o Sri Prem Shankar Srivastava. "
 32. Smt. Anjana Srivastava w/o Sri Avinash Chandra Srivastava. "
 33. Smt. Jasna Devi w/o Sri Hirdey Narain. "
 34. Kumari Dolly Romana Brisco D/o late A.A.Brisco "
 35. Smt. Usha Nagpal w/o Sri Sunil Kumar Nagpal "
 36. Ashok Kumar Mishra s/o late G.P.Mishra. "
 37. Smt. Purvi Sarkhel w/o late S.K.Sarkhel "
 38. Smt. Nirmala Kumari Agrawal wife of Sri Jagdish Prasad. "
 39. Sri Anil Kumar Jaiswal son of Sri S.K.Jaishwal. "
 40. A.P.Singh s/o Sri Indra Bhan Singh "
 41. V.N.Singh s/o late Sri J.D.Singh Senior Clerk
 42. A.K.Bharadwaj w/o late S.L. Bharadwaj "

All the applicants are working as Class III Employee
 in the Northern Railway, Allahabad.

.....Applicants.

(By Advocate : Sri S.Singh)

Versus

1. The Union of India, through Secretary
 Ministry of Railway, Rail Bhawan,
 New Delhi.
2. The General Manager, Northern Railway,
 Baroda House, New Delhi.
3. The Divisional Railway Manager,
 Northern Railway, Allahabad.

.....Respondents.

(By Advocate : Sri P.Mathur)

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O R D E R (oral)BY NON.MR. S.K.AGRAWAL, MEMBER(A)

There are 42 applicants in this case who are similarly placed and have sought a direction to the respondents not to club the seniority of Class III employees of Works Account Branch with Works Branch of Engineering Department of Allahabad Division North Eastern Railway or to pass any other order which this Tribunal may deem fit in the circumstances of the case.

2. The facts of the case in brief are that in the Engineering Branch of N.E.Railway, Allahabad region, there are 3 branches namely Drawing Branch, Works Branch and Works Account Branch or operating Accounts Branch. The nature of work of all the three branches are stated to be different. The Class III employees appointed through Railway Service Commission, which posted directly to the different branches by the Senior Divisional personnel officer and they continued to maintain their lien to the said branch in which they are posted. It is further mentioned by the applicants in the O.A. that the seniority of the each branches are maintained separately and they are given promotion to their respective branch only on the basis of seniority. It is further mentioned by the applicants that the seniority list of Works Branch as well as Works Accounts Branch of Class III employees are maintained separately. The applicants have further mentioned that the duties of Works Accounts Branch and Works Branch are separate and in this regard from time to time notices were issued by the competent authority of N.E.Railway. It is mentioned that the total strength of Class III employees of Works Accounts Branch is near about 52, whereas the Works Branch the total strength of Class III employees are near about 200. Besides in the Works Branch more than about 4000 employees of Class IV are also working. The applicants have accordingly prayed that the cadre

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should not be emerged ^{as} the process of merger was separated by the respondents on 17.5.97 when the matter was put up before the competent authority and accordingly after due formalities, the matter was finally approved by the Competent Authority i.e. D.R.M., N.E.Railway, Allahabad on 09.6.97 immediately thereafter when the approval of the competent authority was received a combined provisional seniority list for the different grades and post of the entire ministerial staff published from the office of Divisional personnel officer on the basis of the relevant instructions on the subject the provisional seniority list dated 09.6.1997 prepared by the respondents ~~had~~ been filed as Annexure SCA-VIII with the counter.

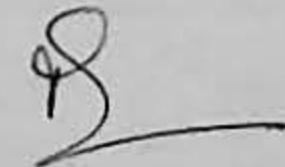
3. It has been stated by the respondents in the counter reply that the similar controversy was agitated before the Lucknow Bench of the Tribunal and the aforesaid application was registered as O.A. No. 367 of 1990 in the case of K.P. Singh and ors. versus Union of India & ors. in which it was held by the Lucknow Bench of the Tribunal that the creation of and bifurcation of the cadre and merger is purely an administrative matter ~~and~~ In the exigencies of the matter, the government decides to merge a particular department and bifurcates ~~and~~ does not call for any interference in this regard. Support was taken from the decision of the Hon. Supreme Court in the case of State of Kerala Vs. M.K.Krishnan Nair and ors. (AIR 1970 Supreme Court - 747) wherein it was held that it was not and cannot be disputed that it is open to the State Government to constitute as many cadres as may be found necessary. It was also observed in the case that it was exclusive jurisdiction of the Government to bifurcate or merge the cadres and accordingly it being the jurisdiction of the government an employee cannot have any say in the matter. It was accordingly held by the Lucknow Bench of the

tribunal that as far as merger is concerned, the same does not call for any interference.

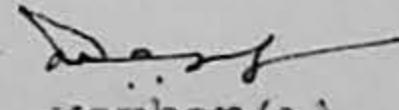
4. The applicant has stated in the O.A. that the D.R.M. has no power to club the cadres. In this regard the learned counsel for the respondents has mentioned that D.R.M. has got full powers to club cadres as found necessary in the **exigencies** of work **and** this point was also adjudicated by the Lucknow Bench of the Tribunal in the above mentioned case, therefore, it does not call for any further adjudication.

5. We have heard the counsel for the parties and gone through all the facts and pleadings made by the respondents.

6. The case of the applicant is fully covered by the decision of the Lucknow Bench of the Tribunal in O.A. No: 367 of 1990 ^{therefore}. We do not find any merit in the O.A. and the same is accordingly dismissed with no order as to costs.



Member (J)



Member (A)

GIRISH/