

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD.

Allahabad, this the 19th day of December 2002.

QUORUM : HON. MR. S. DAYAL, A.M.

HON. MRS. MEERA CHHIBBER, J.M.

O.A. No. 606 of 1998

1. Anil Kumar Gupta S/O Sri Triloki Nath Gupta Post Semi Skilled (Helper Khalasi) T.No.11953 B.G.P.O.H. Shop Mechanical Workshop, N.E.R., Gorakhpur.
2. Prem Chandra S/O Sri Kalika Prasad T.No.11956, Post Semi Skilled (Helper Khalasi) B.G.P.O.H., Shop Mechanical Workshop, N.E.R., Gorakhpur.
3. Santosh Kumar Sharma S/O Sri Jai Ram Sharma, T.No.11938, Post Semi Skilled (Helper Khalasi), B.G.P.O.H., Shop Mechanical Workshop, N.E.R., Gorakhpur.

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..... Applicants.

Counsel for applicants : Sri Saumitra Singh.

Versus

1. Union of India through its Secretary, Ministry of Railway, New Delhi.
2. Chairman, Railway Board, Railway Bhawan, New Delhi.
3. General Manager, North Eastern Railway, Gorakhpur.
4. Chief Personnel Officer, N.E.R., Gorakhpur.
5. Chief Mechanical Engineer, N.E.R., Gorakhpur.
6. Chief Workshop Manager, N.E.R., Mechanical Workshop, Gorakhpur.
7. Chief Workshop Manager (Personnel), N.E.R., Mechanical Workshop, Gorakhpur.....

..... Respondents.

Counsel for respondents : Sri K.P. Singh.

ORDER

BY HON. MR. S. DAYAL, A.M.

This application has been filed for a direction to respondents to set aside the selection proceedings held in pursuance to the notification dated 27.9.1997. A direction is also sought to respondents to permit the applicants to join on the post of Fitter Grade-III with immediate effect or to promote them on the said post from the date of promotion



of their juniors.

2. The case of the applicants is that they were Act Apprentices. They received their training under the Apprenticeship Act for a period of three years. They were appointed on 17.10.1992 on the post of Khalasi in Group 'D'. They claim that this ~~xxxxxx~~ appointment was made ^{due to} ~~the~~ the fact that no vacancies were available against any artisan post, in the pay scale of Rs.950-1500. The respondents notified filling up of 26 posts of Artisans in Group 'C' category on 31.3.1994 and practical examinations were conducted but the said selection was cancelled. Two similar notifications were issued on 27.9.1997 by the Chief Workshop Manager Mechanical Workshop, N.E.R., Gorakhpur notifying 38 posts of Fitter under 25%+25% quota. The first of these notification pertain to the ITI and Act apprentices, while the second notification pertain to serving semi skilled and unskilled employees who had the educational qualifications as required under the Apprenticeship Act. It is claimed that 19 out of 90 posts advertised were for the category of Fitter and 15 were meant for general category and three for SC and one for ST category. It is claimed that the ITI and Act Apprentices should have been ^{considered} ~~applied~~ against 25% quota and unskilled employees who had the educational qualifications also. The applicants also represent that there should be no written examination for granting promotion to the applicants. They also claim that irregularities were committed in the said examination and they had brought them to the notice of the respondents. This application has been filed in the backdrop of the above facts.

3. We have heard the arguments of Sri Saumitra Singh for applicant and Sri K.P. Singh for respondents.

4. We have perused the notification dated 27.9.1997 for recruitment of ITI/Act Apprentices (Trained) working as Semi Skilled and unskilled employees, who had been trained under Apprenticeship Act for selection under 25% quota. In

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the second notification of the same date, applications were invited from those who had not received any training under Apprenticeship Act but were possessing educational qualifications prescribed for apprentices and were working on Semi Skilled and unskilled posts. We find that this selection was held in pursuance of Railway Board Letter No. RM-7/56 dated 2.2.1998. Paragraph 1 of the Railway Boards Letter shows as below :-

"i) 25% by selection from course completed 'Act Apprentices', ITI passed candidates and Matriculates from the open market; serving employees who are course completed Act Apprentices or ITI qualified could be considered against this quota allowing age relaxation as applicable to serving employees."

5. It is clear that the 25% posts against which the applicants had applied, were meant for the course completed for Apprentices, ITI candidates and matriculations from open market along with serving employees having similar qualifications. Thus, the standard applicable to them were the same as would be applicable for selection for direct recruitment. It appears that with regard to the second category of 25% recruitment from among Khalasi and Khalasi helpers, the procedure adopted was different. It is the claim of the applicants that they should have been subjected to the said procedure which was adopted for Khalasi and Khalasi helpers. Since the applicants had appeared against the direct recruitment vacancies, the plea cannot be accepted.


6. We have perused the contents of their representation made after the written examination was held on 28.12.1997. In the representation, the applicants have represented that they had completed three years training of Fitter successfully and were entitled to the benefit given by the Apex Court in UP State Transport Corporation Ltd. VS UP State Road Parivahan Nigam AIR 1995 SCC Page 1115. The applicants have claimed that they were entitled to be appointed without any written examination in the light of the judgment of the Apex Court.

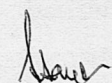
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They had also claimed that they had cleared the vocational trade test when they passed the apprenticeship examination. We find that the applicants were appointed after completion of their training as apprentices on the post of Khalasi on 17.10.1992. The authority relied upon does not entitle the applicants to be appointed straight away on the post of ski categories but only lay down that they shall be considered along with the candidates from open market and in case both are found to be equal, preference shall be given to the category of apprentices. In such a case, the seniority of passing the trade test as apprentice under National Council for Vocational Training would also be relevant. If two candidates found equal belong to the category of apprentice and one has passed earlier, ^{he &} would get priority over the candidate who had passed the apprenticeship training successfully later. Hence the representation of the applicants do not help them in claiming that they should have been exempt from appearing in the written test.

7. Counsel for the respondents has validly pointed out that once the applicants have accepted the category of Khal they were to get appointment to the higher post only under provisions approved by the Railway Board as per letter date 2.2.1998 which has been relied by the applicants also. We have already discussed the provisions of the said circular earlier.

8. Counsel for the applicant has drawn our attention to provisions of paragraph 2.19-J of Indian Railway Establishment Manual, Vol-I. This paragraph is in connection with promotion of serving employees. The applicants had taken examination against the quota for direct recruitment and the provisions of Indian Railway Establishment Manual ^{shown &} ~~drawn~~ to do not serve the purpose. The O.A. is accordingly dismissed with no order as to costs.


J.M.


A.M.