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Reserved

Central Administrative Tribunal,  
Allahabad Bench, Allahabad.

Dated: Allahabad, This The 22<sup>nd</sup> day of Sept. 2000

Coram: Hon'ble Mr. Justice R.R.K. Trivedi V.C.  
Hon'ble Mr. S. Dayal, A.M.

Original Application No. 779 of 1998

1. T.L. Narang, son of Sri K.R. Narang
2. S.N. Khanna, son of Sri T.N. Khanna
3. Rajjan Lal, son of Sri Fateh Lal,
4. Sri J.P. Chopra, son of late Sri P.D. Chopra
5. V.K. Saxena, son of late Pyarey Lal,
6. A.K. Saxena, son of Late S.S. Saxena,
7. S.P. Tewari, son of Sri C.S. Tewari
8. M.P. Rastogi, son of late B.M. Lal Rastogi
9. V.P. Tripathi son of Sri Kamta Prasad Tripathi.
10. T.K. Das, son of Amal Das,

All working as C.T.T.I./Bareilly City,  
North Eastern Railway, Izatnagar.

... Applicants.

Counsel for the applicants: Sri S.K. Tyagi, Adv.  
Sri S.K. Johari, Adv.

Versus

1. Union of India through General Manager  
North Eastern Railway, Gorakhpur.
2. General Manager, Commercial, North Eastern  
Railway, Gorakhpur.
3. The General Manager (Personnel) North  
Eastern Railway, Gorakhpur.
4. Senior Divisional Commercial Manager, North  
Eastern Railway, Izatnagar Division, Bareilly
5. Divisional Railway Manager, North Eastern  
Railway, Izatnagar, Bareilly.

6. Y.P. Singh, son of Sri Vijai Singh, C.I.T.  
North Eastern Railway, Izatnagar, Bareilly  
City, presently posted under Senior Divi-  
sional Commercial Manager, Divisional Railway  
Manager's office, Izatnagar.

. . . Respondents.

Counsel for the Respondents: Sri A.V. Srivastava, Adv.  
Sri R. Verma, Adv.

Order (Reserved)

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

This application has been filed under section 19 of the Administrative Tribunals Act 1985 for setting aside order of respondent No.3 and 4 to post respondent No.6 on Travelling <sup>✓ side.</sup> Ticket Examiner/ Directions have also been sought to respondent No.1 to refrain from posting the respondent No.6 on Travelling Ticket Examiner side as C.T.T.I. in the grade of Rs.700-900.

2. The applicants are working as Travelling Ticket Examiners on the basis of their options at the time of their appointments as Ticket Collector. Thereafter they were promoted to the post of D.T.T.I. and C.T.T.I. and are working at Bareilly City Railway Station. The applicants have claimed in para 4 of their O.A. that respondent No.6 had opted for Ticket Collector side and was granted promotions on Ticket Collectors side only. Respondent No.6 was promoted as Head Ticket Collector on 31.12.83. They however, mentioned in para 5 of their O.A. that the respondent No.6 was granted promotion as D.T.T.I.

in the grade of Rs.550-750 with effect from 1.1.84. They have mentioned that A.V.C. of 1972 was revised by A.V.C. of 1974 when the two cadres of Ticket Collector and Travelling Ticket Examiner were merged after promotion in the grade of 425-640 for purposes of promotion to the next higher grade Rs.550-750. This was again changed by order dated 20.11.84 revising and enforcing the A.V.C. from 1.12.84. The A.V.C. brought into effect from 1.12.84 also provided that in case an employee appointed as Ticket Collector had been granted promotion on or before 31.12.83 either on Ticket Collector side or on T.T.E. side <sup>he</sup> <sub>had</sub> continued to be treated on that side to which he belonged on 31.12.83. Since respondent No. 6 was granted promotion as D.T.T.I. on 1.12.84 he was shifted to Ticket Collector side and was posted as C.T.C-2 in the grade of Rs.550-750. The respondent was thereafter promoted as C.T.C.-1 in the grade of Rs.700-900.

3. The applicants have referred to the order of this Tribunal in O.A. 424 of 1991. The Tribunal refused to grant relief regarding quashing of the order dated 26.7.85/1.8.85. The Tribunal also held that two sides of the cadre i.e. Ticket Collectors side and Travelling Ticket Examiners side should have been kept separate even at the grade of Rs.550-750 or 700-900 level. They have suggested that the direction issued by the Tribunal is inconsistent with the above and in asking the respondents to consider the

applicants of O.A. No. 424 of 1991 for promotion to the post of T.T.E. side in pre-revised scale of Rs.550-750 or 700-900 if they still exist and if the applicants are still entitled to promotion to these scales. It is contended that once the respondent No.6 was promoted as C.T.C.I he could not thereafter be posted as C.T.T.I. It is also stated that the order of O.A. No. 424 of 1991 is not applicable to the applicants because they were not ~~not~~ party in O.A. 424 of 1991. It is also stated that the promotions on Ticket Collector side were fast and on T.T.E. side were slow and that posting the respondent No.6 on T.T.E. side still adversely affect the future promotion prospects and seniority of the applicants.

4. We have heard the arguments of learned counsel for the applicant and learned counsel for the respondents.

5. The applicants are basically asking us to re-interpret our order in O.A. 424 of 1991 in their context. We carefully considered the order in O.A. 424/91 dated 4.7.97 and the contentions of learned counsel for the applicants. An examination of order dated 4.7.97 shows that the right of the applicants one of whom is respondent No.6 in this case for being considered for promotion to the post on the T.T.E. side was upheld. This right was upheld because it was consistent with the observation made in order dated 27.1.88 of the Tribunal in C.A. 129 of 1986 between Rashidul Haq



and others Vs. Union of India and others to the following effect:

" We feel that there was no necessity of making these adjustments and, therefore, the applicants should be allowed to continue on the post to which they had been promoted in the grade of Rs.550-750 in the combined cadre, on the basis of the old avenue of promotion chart, on this short point we, therefore, allow the application and modify the order dated 20.11.1984 in respect of those, who had already been selected and who have now been ordered to go back to T.C. group. Any subsequent orders on this subject in violation of the above principles will be ~~not~~<sup>ext</sup> parties will bear their own costs. "

Thus the right of being considered for promotion on Ticket Collector side as well as T.T.E. side in case of those who had entered the scales of Rs.550-750/Rs.700-900 before the <sup>operation</sup> ~~passage~~ of order of General Manager, North Eastern Railway dated 20.11.84 survived. Respondent No.6 had been promoted as D.T.T.I. by order dated 25.8.84 hence he could not have been considered to have belonged <sup>exclusively</sup> ~~to~~ to the cadre of Ticket Collectors.

6. The applicants have mentioned that the respondent No.6 having been promoted in the scale of Rs.700-900 as C.T.C. Grade-I could not then have been brought on the T.T.E. side to the post of C.T.T.I. after orders of General Manager North Eastern Railway after 20.11.84 became operational. This premise was already rejected in upholding the right of promotion of the applicants in O.A. 424 of 1991 including that of respondent No. 6 and can not be treated as valid now even in the context of what the applicants have stated in their O.A.

The promotion to C.T.T.I. is dependent on seniority in the cadre of D.T.T.I. and the contention that they had entered service earlier is of no relevance.

7. As regards the theory of slow promotion, we are tempted to refer to paragraph 8 of the order of the Tribunal in O.A. 129 of 1986 which runs as follows and exhibits the futility of such an argument:

"The contentions raised by the applicants that the fresh entrants are likely to advance more quickly than the applicants because they will have an opportunity to move in the combined cadre is only a conjecture and it is not likely that such a situation will arise. The chances of promotion even in T.Cs. group are in no way worse than those in T.T.Es, group and there is no such rapid promotion possible in T.T.Es. group that can result in accelerated promotion to the new entrants to enable them to catch the petitioners who have already come to the grade of Rs.550-750. This fear is purely hypothetical and cannot be a ground for quashing of the impugned orders."

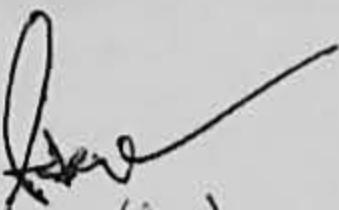
8. The other contention of the applicants that since they were not parties to O.A. 424 of 1991 the order passed in that O.A. is not binding on them ~~is~~ is also not relevant here because what was decided in O.A. 424 of 1991 was the right of the applicants in that O.A. including respondent No.6 who was applicant No.1 in the O.A. to <sup>be considered for</sup> promotion to combined cadre of T.C. and T.T.E. side. The right of promotion includes the right to work and be posted to either of these two sides. The action of the official respondents

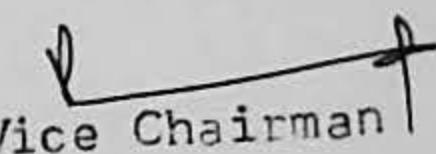
in this case in posting respondent No.6 on T.T.E. side cannot thus be considered to be arbitrary or unlawful.

9. In the light of our findings in last four paras, we consider that the O.A. is lacking in merits. The O.A. is dismissed.

10. The interim order operating in this case stands vacated.

11. There shall be no order as to costs.

  
Member (A.)

  
Vice Chairman

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22/9/2000.