

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH ALLAHABAD.

Original Application No. 509 of 2001

Along with

Original Application No. 521 of 2001.

Allahabad this the 05th day of October 2004.

Hon'ble Mr. A.K. Bhatnagar, Member-J.
Hon'ble Mr. S.C. Chaube, Member-A.

1. Badri Prasad son of Sri Chunni Lal,
Resident of Railway Qr. No. 185-B,
Lajpat Road, Kanpur Cantt side Kanpur
Central.
2. S.K. Sodhi son of Sri Govind Singh Bodhi,
Date of appointment 16.10.1974 IIInd Fire Man
Date of Birth 5.10.1949, 1978 as Coach Attendent.
3. Murlidhar son of Sri Banshidhar,
Resident of Kath Mau, P.O. Same District Etawah
Coach Attendent 4.10.1982 dt. of Birth 3.7.1957
Date of appointment 20.5.1976 as Porter P.N.D.
4. Ram Bujharath son of Sri Jagdish
resident of Qr. No. 225/A, Railway Colony side Kanpur.
5. Ram Asharey son of Manni Lal,
Resident of 83/118 Chhoti Juhi, Kanpur.
6. R.K. Bajpai son of Sri B.P. Bajpai,
resident of 83/37, Juhi Gopal Bhawan, Kanpur.
7. Munna Lal son of Sri Lajja Ram,
C/o Sri Sharafat Ali resident of 83/175 A, Param Purwa,
Juhi, District Kanpur.
8. Mohan Lal son of Sri Ram Adhar,
Resident of Baba Ka Purwa, P.O. Fateot,
District Orai.
9. K.S. Yadav son of Sri Sataya Narain Yadav,
Resident of 181, Sujat Ganj, Chandari Kanpur.
10. Govind Prasad son of Ram Bharosey,
Resident of B.12, Military Camp Colony,
Juhi, Kanpur.
11. Brij Kishore son of Sri Sunder Lal,
Resident of 55/3, Govind Nagar, District
Kanpur Nagar.
12. Shiv Dularey son of Sri Uma Shankar,
Resident of 144, South Railway Colony, Old Station,
District Kanpur.
13. A.K. Mishra son of Sri N.N. Mishra,
resident of Railway Colony Qr. No. 245/C
City side Kanpur Nagar.
14. Sri Lal Bahadur son of Sri Madho,
resident of Nagar Ram Phal, P.O. Raja Bagh,
District Etawah.

.....Applicants.
in O.A 509/01

(By Advocate : Sri K.K. Tripathi)

ALONGWITH

Original Application No.521 of 2001.

1. Ram Vishal son of Sri Shiv Kant,
Resident of 475-C, Railway Colony,
Tejab Mill, Kanpur.
2. Tej Singh son of Sri Ram Chandra,
C/o Sri Sharafat Ali resident of 83/175-A,
Paras Purwa, Juhi Kanpur Central.
3. Babu Lal son of Sri Karan Singh
Resident of Village and P.O. Davar,
District Aligarh.
4. Ram Chandra Mishra son of Sri Maha Narain Mishra,
Coach Attendant, Railway Station, Kanpur.
5. Sri Devi Dutt, son of Sri Nanaku Lal,
Coach Attendant Railway Station Kanpur.
6. Sant Ram Yadav son of Ram Dev Yadav,
Resident Qr. No.554/E, Jhakar- Kati Kanpur.

.....Applicants in O.A 521/01.

(By Advocate : Sri K.K. Tripathi)

Versus.

1. Union of India,
through its General Manager,
Northern Railway, Baroda House,
New Delhi.
2. Division Railway Manager, Northern
Railway, District Allahabad.
3. Divisional Commercial Manager
Northern Railway, Allahabad.
4. Mohammad Azhar Shuma,
Divisional Commercial Manager,
Northern Railway, Allahabad.
5. Assistant Personnel Officer, Northern
Railway, Allahabad.

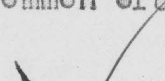
.....Respondents
in O.A No.509/01 & 521/01

(By Advocate : Sri A.K. Gaur)

O R D E R

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

Both these OAs have been filed, under section 19 of the Administrative Tribunals Act 1985, and since the facts and reliefs of both the OAs are the same, they are being disposed of by a common order. The leading case being OA No.509/01.



2. The applicant has prayed for quashing the order dated 26.06.2000 and 01.12.2000 (Annexure A-1 and Annexure A-2). He has further prayed for direction to the respondents for not treating the applicants as surplus staffs and continue the applicants as Coach Attendants on their respective places where they are working.

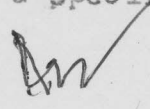
3. The brief facts giving rise to this O.A. as per the applicants are that the applicants had been working as Coach Attendants for last 20 years. It is an admitted fact that 33 posts of Coach Attendants were surrendered vide office Notice No.CM-1/CA/ALD/98 dated 23.01.1998 and notices were also issued for their redeployment in Electricity Department. The applicants have challenged the order dated 26.06.2000 by which 15 candidates were selected after the suitability test (written examination) held on 25.03.2000 for absorption as T.C. Gr. Rs.3540 (RSRP) and order dated 01.12.2000 which has been passed by respondents in compliance of the order dated 31.08.2000 passed in O.A. No.900/2000. The grievance of the applicants are that 33 persons who were working as Coach Attendants have been rendered surplus by the department including the applicant. Out of them fifteen were promoted as T.C. vide order dated 26.06.2000 whereas the applicants were not given the same treatment.

4. Learned counsel for the applicants submitted that the respondents have issued notice to 85 candidates who have got no concern in this matter as only 33 surplus Coach Attendants including the applicants are entitled for promotion of the post of T.C. Learned counsel for the applicants submitted that the respondents have been working as Coach Attendants for last 20 years and this fact has also ^{not} been considered by the Department

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in the promotional matter of T.Cs. He further submitted that respondents have arbitrarily held the examination for 15 posts of T.Cs instead of 33 posts, and action of the respondents is arbitrary, discriminatory and against the principles of natural justice.

5. Resisting the claim of the applicants, the respondents filed counter affidavit which was followed by rejoinder. Learned counsel for the respondents has invited our attention on Sub para 2/ ^{of para 17} of the counter affidavit and submitted that one time exemption was granted for redeployment of surplus Coach Attendants on the basis of written suitability test against the vacancy of direct quota in terms of General Manager (P), New Delhi letter dated 10.10.1999. Accordingly, a notice was issued for filling up 15 vacancies, calling all the Coach Attendants to appear in the written suitability test on 25.03.2000. A Written test was held on 25.03.2000 and a panel of 15 candidates was formed on the basis of written suitability test through Selection Committee. As the applicants of this case could not pass the suitability test (written examination) so they could not be promoted for the post of T.Cs. Thus, 15 candidates who passed the examination for promotional post of T.C., were granted promotion to the post of T.C. after they have been declared successful in the said examination. Learned counsel for the respondents further submitted that the applicants have not made 15 persons of panel dated 26.06.2000 as party in the array of the respondents who have already been selected for the post of T.Cs, so the O.A. is liable to be dismissed only on this ground alone for non-joinder of parties. It is an admitted fact that the applicants have filed the O.A. No.900/2000 by which a direction was issued to decide the representation of the applicants within a specified period. Accordingly, the

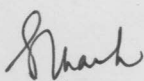


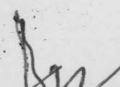
respondents passed the order in compliance of the above C.A.'s order dated 01.12.2000 which is a detailed and reasoned order.

6. We have also gone through the order dated 01.12.2000 which we find a detailed and speaking order. In para (a) of the order, it is specifically mentioned that their absorption in the higher scale of pay from CA category is through a process of selection from amongst the eligible CAs. Therefore, the claim of the applicants that they have exclusive right to the promotion to this post, is against rules and against the law. The number of vacancies of T.C were only 15 whereas the applicants wanted 33 vacancies for all the 33 surplus Coach Attendants. In the last para, it is also mentioned that the Coach Attendants who were not willing to attempt the paper, marked their attendance and left the examination hall immediately after marking the attendance without appearing in the examination. It is an admitted fact that the post for T.C is a selection post and thus, the candidates who appeared and passed the examination, were granted promotion and others who did not appear in the examination, could not get the said promotion.

7. Under the facts and circumstances and in view of the above discussion, we find that the applicants have no case. Therefore, their claim is liable to be rejected. Accordingly the original application No.509/01 and 521/01 are dismissed being bereft of merit.

No order as to costs.


Member-A.


Member-J

Manish/-