

Reserved

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH,
ALLAHABAD

ORIGINAL APPLICATION NO.1687 OF 2004

ALLAHABAD THIS THE Fri DAY OF 2nd February 2007
JANUARY, 2007

HON'BLE MR. K. ENANGO, MEMBER-J
HON'BLE MR. M. JAYARAMAN, MEMBER-A

1. Nasir-ul-Haq.
2. Abdul Rahim.
3. Deo Lal Aman.
4. Niyamat Ullah Khan.
5. Ram Lakhan.
6. Hari Shankar.
7. Vijay Ram.
8. Zaved Ali.
9. Gur Prasad.

All the petitioners are basically Shunters
and are working as Goods Driver Gr. 5000-
8000/- under Respondent no.3

.....Applicants

(By Advocate Shri R.K. Nigam)

V E R S U S

1. Union of India, through Secretary, Ministry of
Railways, Railway Board, New Delhi.
2. General Manager, N.C.R., Allahabad.
3. D.R.M. N.C.R., Jhansi.

.....Respondents

(By Advocate: Sri K.P. Singh)

per M. Jayaraman. Member (A)

O R D E R

Heard Sri R.K. Nigam, learned counsel for the
applicants and Sri K.P. Singh, learned counsel for
the respondents.

2. The prayer made by all the applicants in this
O.A. is to quash the impugned order dated 6.10.2004
and to direct the respondents to promote the




applicants as Goods Driver in the Grade of Rs. 5000-8000/- on substantive basis through the process of modified selection in terms of the Railway Board's letter dated 6.1.2004.

3. A quick look at the brief facts of the case will present the matter in proper perspective. The applicants, herein, are basically Shunters in the Grade of Rs. 4000-6000/- (RSRP) and presently working as Goods Driver in the Grade of Rs. 5000-8000/- (RSRP) on adhoc basis. They have been working on these posts for a long time and, therefore, pleaded that under the scheme of restructuring of cadre introduced by Railway Board in the various categories, the cadre of Shunter and the posts have been identified for upgradation as Goods Driver in the grade of Rs. 5000-8000/- (RSRP). It is further stated that as a one time measure called as 'Modified Selection process', the Railway Board has specifically stated that there would be no written or viva voce test and that the selection to the post of Goods Driver would be strictly on scrutiny of records and confidential reports. The Railway Board's letter dated 6.1.2004 has been cited in this regard. According to the applicants, their counterparts in the same grade and category in the other Divisions have been extended the benefit of the scheme except in the present Division where the applicants are working. Thereafter, the applicants filed O.A. no. 684 of 2004 before this Tribunal in



which they had prayed for giving the benefit as specified in the Railway Board's letter dated 6.1.2004 and for issuing the promotion order in their favour. The said O.A. was disposed of vide order dated 5.7.2004 at admission stage itself without going into the merits of the case, by giving a direction to the respondent no.2 to decide the representation of the applicants within a period of three months from the date of receipt of copy of the said order of the Tribunal. In compliance of the above directions of the Tribunal, the respondents have issued the impugned order dated 6.10.2004, which is under challenge in this O.A.

4. The main plank of the applicants in this O.A. is that by letter dated 6.1.2004 the Railway Board has specifically stated that existing selection procedure would be modified to the extent that the selection will be based only on scrutiny of service records and confidential reports without holding any Written or viva-voce test and, therefore, the applicants' plea is that the respondents have not paid any heed to the above directions of the Railway Board and have rejected their representation for promotion to the Goods Driver in the substantive basis by the modified selection procedure. The plea of the applicants is also that similar benefit has ~~been~~ been given to their counterparts working in other Divisions and they have cited the order dated 6.4.2005 issued by the D.R.M., Jodhpur by which 43



similarly placed Shunters have been taken on the post of Goods Driver by adopting the modified selection procedure under the restructuring scheme w.e.f. 1.11.2003.

5. Opposing the above contentions of the applicants, the respondents have stated that the promotion to the post of Goods Driver is purely based by way of selection, which is conducted from time to time. Accordingly all eligible lower grade staff including the applicants were called to appear in the selection. It is further stated that the scheme of restructuring came into force on 1.11.2003 and selections have been ^{notified} ~~modified~~ in which Written ~~test~~ test has been exempted as one time measure. However, the Railway Board has clarified vide their letter dated 6.1.2004 that where percentage has been reduced and no new post becomes available for restructuring, normal selection procedure would be conducted. In other words, the respondents' plea is that benefit of modified selection procedure will be applicable only where percentage has been increased and new post becomes available on account of restructuring. They have enclosed a copy of the Railway Board's letter dated 6.1.2004, and stated that in the case of Goods Driver in the pay scale of Rs. 5000-8000/- (RSRP) percentage has been reduced from 80 to 73 and so the benefit of modified selection procedure will not be applicable. They have also stated that all the applicants, herein,

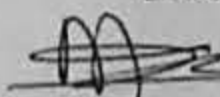


are working on adhoc basis and are not within the zone of consideration of modified selection because the posts have been reduced by way of restructuring.

6. We find force in the arguments put forwarded by the respondents. It is understandable that the respondents are bound by the Rules & the policy laid down by the Railway Board and they could not be guided by any order or procedure adopted by other Divisions. We have perused the Railway Board's letter dated 6.1.2004 in which in para 4 there is reference to adopting the modified procedure without holding any written test or viva voce test. However, as pointed out by the respondents in the subsequent para of 4.5 of the Railway Board's Letter as above, it is clarified as follows:-

"In case where percentage has been reduced in the lower grade and no new post became available as a result of restructuring, the existing vacancies on dated 1.11.2003 should be filled up by normal selection procedure".

7. We further observe that by letter dated 9.10.2003, which is at Annexure-2 to the Counter Affidavit, the Railway Board has reduced the percentage of the post of Goods Driver in the pay scale of Rs.5000-8000 (RSRP) from 80 to 73. Therefore, the provision of paragraph no.4.5 of the Railway Board's letter dated ^{06.01.2004}~~06.10.2004~~ would seem to apply to the present case. Accordingly, the respondents are right in insisting that only normal selection procedure would apply in this case and not the modified selection procedure.

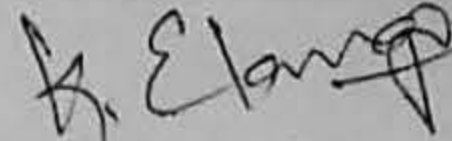
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8. In view of the above, we cannot interfere with the process of selection being adopted by the respondents. The O.A. fails accordingly.

9. In the light of the above discussion, we dismiss the O.A. with no order as to costs.



Member (A)



Member (J)

/Girish/