

RESERVED

**CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH ALLAHABAD**

Dated: This the 8th day of December 2016


HON'BLE DR. MURTAZA ALI, MEMBER - J
HON'BLE MR. O.P.S. MALIK, MEMBER -A

Original Application No.955 of 2005

1. Kishori Lal aged about 57 years son of Late Shri Ram Gopal, Goods Supervisor, N.C. Railway, Kanpur Central Goods Shed, Kanpur.
2. Abdul Wahab Ansari aged about 52 years son of Late Abdul Gaffar, Goods Supervisor, N.C Railway, Kanpur Central Goods Shed, Kanpur.
3. Abdul Salam, aged about 49 years, son of Late Abdul Rahim, Goods Supervisor, N.C. Railway, Chandari, Kanpur.
4. Lal Bachan Ram, aged about 53 years son of Late Sunder Lal, Goods Supervisor, N.C. Railway, Kanpur Central Goods Shed, Kanpur.
5. Sukhram Singh, aged about 52 years, son of Late Kehari Lal, Goods Supervisor, N.C Railway, Kanpur Central Goods Shed, Kanpur.
6. Sri Nath Tiwari, aged about 59 years son of Shri R.D. Tiwari, Goods Supervisor, N.C. Railway, Kanpur Central Goods Shed, Kanpur.
7. Yogendra Pal Singh, aged about 53 years, son of Late Fateh Singh, Goods Supervisor, N.C. Railway, Kanpur Ordinance Factory, Kanpur.
8. Ram Pratap Singh, aged about 51 years, son of Late H.P Singh, Goods Supervisor, N.C. Railway, Kanpur Ordinance Factory, Kanpur.
9. Ram Ji Chaube, aged about 51 years son of Shri Ganesh Chaube, Goods Supervisor, N.C. Railway, Kanpur Ordinance Factory, Kanpur.

..... Applicants

By Adv: Shri Sudama Ram



VERSUS

1. Union of India through General Manager, North Central Railway, Headquarters Office, Allahabad.
2. Divisional Railway Manager, North Central Railway, Allahabad.
3. Sr. Divisional Personnel Officer, N.C. Railway, Allahabad.
4. Sr. Divisional Commercial Manager, N.C. Railway, Allahabad.

..... Respondents

By Adv: Mr. R.K Rai

ORDER

BY HON'BLE DR. MURTAZA ALI, MEMBER - J

The instant O.A. has been filed under Section 19 of the Administrative Tribunals Act 1985 seeking following relief (s)

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- "(i) The Hon'ble Tribunal may graciously be pleased to quash the impugned notification dated 7.6.2005 (Annexure A-1 and 24.6.2005 (Annexure A-2) and direct the respondents to promote the applicants with retrospective date i.e. 1.11.2003 against 22 vacancies of Goods Superintendents Grade Rs.6500-10500 which are arisen due to upgradation of posts as on 1.11.2003 due to restructuring of cadre and which were to be filled up only by adopting modified procedure of selection as per policy of the Railway Board dated 9.10.2003 and 6.1.2004.*
- (ii) The Hon'ble Tribunal may further be pleased to direct the respondents to fix their pay with effect from 1.11.2003 and pay also arrears of difference of pay which are admissible under the rules.*
- (iii) Any other writ or order or direction which the Hon'ble Tribunal deems fit and proper in the circumstances of the case may also kindly be issued in the interest of justice.*

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(iv) *Cost of the Application may also be awarded".*

2. The brief facts of the case are that the applicants were appointed as Goods Clerk between 1974-1975 in the pay scale of Rs.3200-4900 (R.S.R.P) and they were promoted as Goods Supervisors in the year 1997 in the Grade Rs.5500-9000. The Railway Board revised the existing percentage of grades under cadre restructuring w.e.f. 1.11.2003 vide letter dated 9.10.2003 in the Commercial Goods (Clerks) which is given below -

<u>Category</u>	<u>Grades</u>	<u>Existing %age</u>	<u>Revised %age as on 1.11.2003</u>
Commercial Clerk (Here Goods Clerks)	Rs. 6500-10500	08	12
	Rs.5500-9000	12	18
	Rs.5000-8000	25	25
	Rs.4000-6000	35	28
	Rs.3200-4900	20	17
Total		100	100


3. It was decided that the vacancies caused by the upgradation of posts under the cadre restructuring after revised percentage and the vacancies arisen on account of promotion would be filled up by simplified and modified procedure of selection. It was also decided that the benefit of promotion shall be given effect to w.e.f. 01.11.2003. It is stated that the selection of 6 posts of Goods Supervisors were initiated and the applicants, except at Sl. NO. 4, 5, and 9 appeared in the said selection, but the result of said selection was not declared and later on, the selections were dropped on the ground that existing vacancies prior to 1.11.2003

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would also be included. The respondents have not issued any seniority list of all Commercial (Goods) cadre as on 1.11.2003 showing the sanctioned strength and revised sanctioned strength in each grade and also did not specify the posts which were to be filled up by adopting the modified procedure. It has been alleged that the applicants have been denied promotion in the grade Rs.6500-10500 against the existing vacancies as on 1.11.2003 whereas other staff of Commercial Department have been given their due promotions w.e.f. 01.11.2003.

4. It is stated that the respondent No. 2 had issued two notifications dated 7.6.2005 (Annexure A-1) and 24.6.2005 (Annexure A-2) for holding selection for 12 vacancies of Goods Supervisors grade Rs. 6500-10500 (R.S.R.P) ignoring the claim of applicants. The applicants sent a representation dated 25.10.2004 (Annexure A-9) for granting promotion in Goods Superintendent Grade Rs.6500-10500 against existing 22 posts under cadre structuring and they again represented on 12.7.2005 (Annexure A-10) against the selection process which was initiated through notifications dated 7.6.2005 and 24.6.2005 and requested the respondents to promote them by adopting modified procedure of selection but no heed has yet been paid by them.

5. In the counter reply, it is stated on behalf of respondents that the promotion in the category of Goods has been done as per instructions and policy laid down in the Railway Board letters dated 9.10.2003, 6.1.2004 and 23/26.7.2004. It is further stated that as no post was upgraded in the category of C.G.S grade Rs. 6500-10500 and G.S. grade



Rs.5500-9000 and thus the question of giving the benefit of promotion to the applicants against chain and resultant vacancy does not arise.

It is stated that as per Railway Board letter dated 9.10.2003, the strength in the category of Goods was revised as under –

<u>Sl. No.</u>	<u>Category</u>	<u>Grade</u>	<u>Revised %age</u>	<u>Strength after revision</u>	<u>Working strength</u>
1.	C.G.S.	6500-10500	12%	28	30
2.	G.S.	5500-9000	18%	41	43
3.	Hd. G.C.	5000-8000	25%	58	82
4.	Sr. G.C.	4000-6000	28%	64	75
5.	G.C.	3200-4900	17%	39	NIL
			Total	230	230

6. As the category of G.C. Grade 3200-4900 (R.S.R.P) was a diminishing category, no recruitment was done in this category. No post was upgraded in the category of C.G.S grade Rs. 6500-10500 (R.S.R.P) and senior G.S. grade Rs.5500-9000 as the employees working on these posts were more than revised strength. It is further stated that the written examination was also held on 6.8.2005 and 13.8.2005 to fill up 12 vacancies in the category C.G.S. grade 6500-10500 (R.S.R.P) but the result of said examination could not be declared in view of order dated 6.10.2005 passed in O.A. No. 994/05. It is further stated that no representation dated 25.10.2004 has ever been received in the office of respondents.

7. In the rejoinder, the averments made in the O.A. have been reiterated. It has further been stated that the notification dated 7.6.2005 which was issued for holding selection to fill

up 12 vacancies was dropped as per policy of Railway Board to fill up these vacancies by modified selection of procedure but these vacancies are not being filled up under restructuring of cadre as per Railway Board letters dated 9.10.2003, 6.1.2004 and 23/26.7.2004. It has been alleged that the applicants are being denied of their promotion against these vacancies. It has further been alleged that the respondents are not allowing promotion to the applicants deliberately while 22 vacancies were to be filled up by modified selection of procedure.

8. In the supplementary counter affidavit, it has been stated that while deciding OA NO. 994 of 2005, the Tribunal has held in its order dated 4.11.2011 that as the notification dated 7.6.2015 and 24.6.2015 have already been cancelled by the respondents vide notification dated 15.2.2007, thus no relief could be granted to the applicant. It has also been stated that as the applicants are claiming similar relief in the instant O.A., they are not entitled to any relief as the O.A. No. 994 of 2005 has already been dismissed on 4.11.2011. It has also been explained that 369 posts were sanctioned on 1.1.1984 under Goods cadre and the posts of Goods Clerk was a diminishing cadre and no recruitment was made under that category and thus the sanctioned posts under Goods cadre have been decreased to 230 posts and so the restructuring of cadre was done on 230 posts as stated in the letter dated 3.7.2013 (Annexure SRA-2) in the following manner -

Sl No.	Posts	Sanctioned post (31.10.2003)	Percentage	Sanctioned posts after restructuring (1.11.2003)

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1.	Chief Goods Superintendent	30	12%	28
2.	Goods Supervisor	43	18%	41
3.	Head Goods Clerk	82	25%	58
4.	Senior Goods Clerk	75	28%	64
5.	Goods Clerk	-	17%	39
		230		230

It has further been stated that as 30 employees were already on roll of Chief Goods Superintendent against revised strength of 28 and, therefore, after restructuring, no post of C.G.S was available to promote the applicants.

9. Heard Shri S. Ram counsel for the applicants and Shri R.K. Rai counsel for the respondents and perused the record.

10. At the outset, learned counsel for the applicants submitted that he does not press relief (i) to the extent by which it was prayed that the respondents be restrained to conduct regular selection for filling the post of Goods Superintendent Grade Rs. 6500-10500. He confined his arguments only in respect of seeking promotion w.e.f. 1.11.2003 against alleged 22 vacancies of Goods Superintendent Grade Rs.6500-10500 after restructuring of cadre by adopting modified procedure of selection.

11. Learned counsel for the respondents argued that the instant O.A. has become infructuous as the notification dated 7.6.2005 (Annexure A-1) and 24.6.2005 (Annexure A-2) have already been cancelled by the respondents vide notification dated 15.2.2007. It has further been contended that O.A. No. 994/2005 was filed mainly for quashing the notifications

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dated 7.6.2005 and 24.6.2005 and it was also prayed by the applicant to issue a direction to the respondents to promote him as Chief Goods Superintendent grade 6500-10500 against 22 vacancies after restructuring of cadre by adopting modified procedure of selection. While holding that no relief could be granted to the applicant in view of the fact that the notifications dated 6.6.2005 and 24.6.2005 have already been cancelled by the respondents, the Tribunal only gave a liberty to the applicant to move a fresh representation before the respondents to initiate the process of conducting selection/promotion in view of notifications issued by the Railway Board in respect of restructuring of cadre.

12. The main controversy in this O.A. is whether any number of post of Chief Goods Superintendent was increased by revising the strength of C.G.S. category from 8% to 12% as claimed by the applicants or no post of C.G.S. was available for promotion after restructuring as 30 employees were already on roll against 28 posts of C.G.S. were available, as stated by the respondents.

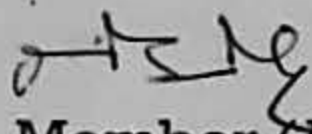
13. From the perusal of letter dated 3.7.2013 (Annexure SRA-1), it is evident that 30 employees were working on the post of C.G.S. against the cadre strength of 28 posts after revising the strength from 8% to 12% to the post of Chief Goods Superintendent and thus no promotion could be made on the post of C.G.S. after restructuring of cadre. It has also been pointed out by the learned counsel for the respondents that all the applicants have now retired and they have not received any representation from them in respect of

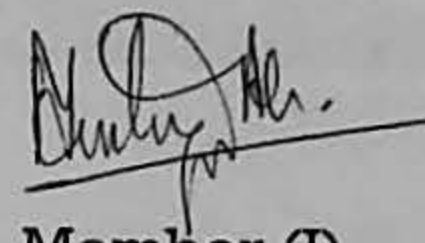


consideration of claim of their promotion on occurring the vacancy of Chief Goods Superintendent.

14. Considering all the facts and circumstances of the case, we are of the view that no post of Chief Goods Superintendent was available for promotion after restructuring of cadre as 30 employees were already on roll against the revised strength of 28 and, therefore, applicants are not entitled to any relief.

15. Accordingly, O.A is dismissed. There is no order as to costs.


Member (A)


Member (J)

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