

Reserved.

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH,
ALLAHABAD.

T.A.No.361 of 1987

Parmanand Prasad & 21 othersApplicants.

Versus

Union of India & othersRespondents.

Hon'ble Mr. Justice U.C. Srivastava, V.C.

Hon'ble Mr. K. Obayya, A.M.

(By Hon'ble Mr. Justice U.C. Srivastava, J.M.)

Feeling aggrieved with the preparation of common seniority list of Blacksmith and Furnacemen which, according to the applicants, is contrary to the rules and circulars issued by the Railway Board which have force of law and which blocked their chances of promotion to the posts of higher grade Furnacemen, the applicants have approached the tribunal praying for quashing the letters dated 27.11.78 and 16.4.69 in this behalf and it is also prayed that the respondents be directed to prepare a separate lists of Furnacemen and Blacksmith

2. The applicants, 22 in number, are Furnacemen in the Engine Division of Heat Treatment Shop of the Diesel Locomotive Works and the rules, framed by the said Workshop indicate that all workshops Artisan Staff unskilled, Semi-skilled, skilled and highly skilled -d- grade II or I will be divided into eight promotional Divisions; namely

1. Vehicle.
2. Engine.
3. Millwright
4. Heat Treatment.
5. Diesel Room.
6. Electrical Section indicating Chrome plating.
7. Electrical main Works and Colony; and
8. Inspection.

These rules, framed by the Diesel Locomotive Works Administration in the year 1966

provide that the seniority and avenue of promotion

will be tradewise in each Division. The Railway Board vide its letter dated 4.7.69, approved the aforesaid rules with certain modifications but the Divisionwise and Tradewise preparation of seniority list and avenue of promotion was not modified. The aforesaid rules framed by the Diesel Locomotive Works, was in conformity with the Railway Board's earlier letter dated 22.4.63 wherein it was provided that every workshop employees will be borne on a seniority list of the particular category of the shopfloor. A meeting of the staff council took place and in that meeting it was held in May, 1972 that there should be one seniority list of one trade and not divisionwise.; meaning thereby that an employee of a particular trade irrespective of the Division in which he is working, will be included in one seniority list. There was to be one seniority list for all the fitters,, employed in the Diesel Locomotive Works and the seniority of Fitters Divisionwise was not to be prepared. Thus, according to the applicants, the job of furnacemen requires knowledge of construction and operation of all types of furnaces and the job of Furnacemen is altogether ^{different} that of blacksmith and has specified difference between two and they function in different shops of the various Divisions of the Diesel Locomotive Works. The Furnacemen is a part of the Heat Treatment shop whereas a blacksmith is primarily a part of the vehicle Division. He may be employed in other Divisions also as Blacksmith where-ever blacksmith's work is required. The applicants have categorically stated that in all the workshops throughout the country, the seniority of

Furnacemen and Blacksmiths are separately prepared and their channel of promotion are also separate. In Diesel Locomotive Works also they are treated differently but a combined seniority list has been prepared. Initially the appointments of Furnacemen are made in the category of Furnacemen itself whereas a Blacksmith is initially appointed as a Hammerman. The promotion to the next higher grade is in the category of semi-skilled Furnacemen Incharge in case of Furnacemen and Blacksmith in case of Hammerman and their further promotions are Furnacemen skilled and Blacksmith skilled and they are entitled to further promotion as highly skilled Grade I, II for both the trades separately as Furnaceman Incharge highly skilled Grade II and I and the Hammermen are promoted as Blacksmith highly skilled Grade II or highly skilled Grade I. The applicants moved an application before the department in this behalf which has been rejected on 27.11.78. Thereafter they also made representations before the other authorities also but they failed to get any relief and approached this tribunal.

3. The respondents have opposed the claim of the applicants and have also controverted the various averments made by the applicants. According to the respondents, the applicants no. 1 to 22 were initially recruited either as Khalasis or B.T. Furnaceman in the Diesel Locomotive Works and at present they all are working either as a semi-skilled furnaceman, skilled furnacemen ~~and~~ or highly skilled furnacemen Grade II in the Heat Treatment Shop of the Diesel Locomotive Works. The avenue of advancement of Mechanical and Electrical Staff were drawn and circulated. General Manager's letter dated 7.10.66 and

promotional Divisions were provided as stated by the applicants. The avenue of advancementⁿ circulated vide the General Manager's letter dated 7.10.66 and amended from time to time has been superseded by the avenue of advancement of Mechanical and Electrical Staff circulated under the General Manager's letter dated 31.5.72. The respondents have also challenged the statement, made by the applicants, that the said letter got approval of General Manager, because the letter dated 4.7.69 which is on record, is not the Railway Board's letter but of the Chief Inspecting Officer's letter circulating the General Manager's directives contained in his letter dated 21.6.69 amongst the staff working under him in the inspection-unit. It has been stated that the General Manager's letter dated 21.6.69 was issued for certain corrections to be made in the avenue of advancement of Mechanical and Electrical Staff already issued vide General Manager's^{b/p} letter dated 7.10.66. Para 12 of the avenue of advancement dated 7.10.66 which dealt with the Inspection Division as a separate unit for the purpose of avenue, had the approval of the Railway Board as indicated in para 1 of the General Manager letter dated 21.6.69 and the same had no relevance in regard to the avenue of advancement of Mechanical and Electrical Staff working in other than Inspection Division in Diesel Locomotive Works. They have also stated that in the meeting^{held} /on 22.5.72, the principle of 'one trade one seniority' was accepted between the administration and the staff representatives. The avenue of advancement of Mechanical and Electrical staff as mentioned in Circular dated 31.5.72 was issued after considering all the aspects including the nature of work attached to the post, future prospect of promotion of the small categories of staff to ensure that their avenue of advancement should not be blocked for further advancement etc. The categories^{en}

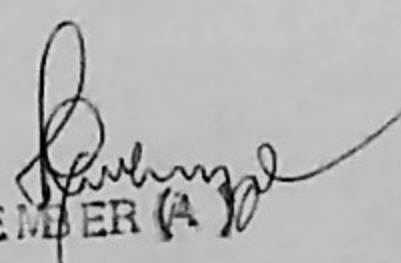
have accordingly been clubbed together for the purpose of their future advancement against higher grade posts subject to their passing the prescribed trade test. The avenue of advancement prepared for staff in Mechanical and Electrical departments, the posts in the skilled categories being filled by promotion from lower grade i.e. semi skilled grades subject to their passing trade test to the extent of 50% vacancies are filled by absorption of apprentices on the successful completion of training period. A common seniority list was issued for the staff working in the categories of furnacemen and blacksmith as these categories have common avenue of promotion. The promotion of staff working in the category of Furnacemen and Blacksmith are considered for promotion to the higher grades in accordance with their position assigned in the common seniority of Furnacemen and Blacksmith and it is not correct to state that the Blacksmiths are promoted to the higher grade ignoring the Furnacemen. Whosoever comes in turn according to their seniority position in the common seniority list, are considered for promotion to the higher grade. It has been stated that the avenue of advancement for the categories of Furnacemen Boiler Room attendant and Blacksmiths together has been laid down taking into consideration the circumstances prevailing in Diesel Locomotive Works being an independent production unit.

4. The contention on behalf of the applicants is that this clubbing of two different cadres is unwarranted and against the statutory rules inasmuch as the earlier avenue of promotion having been given approval by the Railway Board pertains to the nature of statutory rules and the same could not have been modified by the General Manager's letter. From

perusal of the correction slip on which reliance has been placed and which has been issued by the CIO and not by the General Manager, it is evident that the approval of the Railway Board was taken in respect of one correction only and not in respect of all. The language of the said document is not to the effect that the Railway Board has given approval to the same as corrected, as such earlier avenue of promotion which has statutory force could not have been modified even before. The said avenue of promotions were modified in the year 1972 itself and the same cannot be challenged at this stage. Even if it could be said that elsewhere there was no clubbing but every Head of Department can frame rules in respect of its unit and every unit is a different production unit and in this State unit the circumstances were considered as such that of course there may be clubbing so that both may get the same promotional avenue after a later stage. It is always open for the administration or Railway Administration or any employer to allow clubbing or to ~~do~~-club what has been clubbed earlier. The challenge to the same can be done if it is arbitrary and against the established principle of law. The clubbing which gives avenue of promotion to both cannot be said to be arbitrary or against any established principle of law. It is true that as a result of clubbing it may be that one group may not get as much promotions as it was expecting earlier but the rules can always be changed and the under changed rules, the avenue of promotions can also be varied and one, who was expecting more promotions, may get lesser promotions. The same cannot be said to be violative of Articles 14 or 16 of Constitution of India. The General

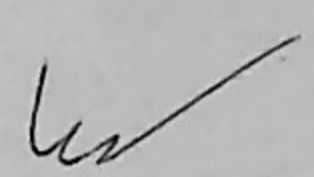
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Manager has modified his own letter as he was competent to do so and it cannot be said that any modification has been made in the statutory rules which was crux of the matter in which the applicants have failed. The application deserves to be dismissed and accordingly it is dismissed. No order as to costs.


MEMBER (A)

DATED: 4th March 1993..

(ug)


VICE CHAIRMAN.