

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH.

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Registration T.A. 1248 of 1987
(W.P. No. 3148 of 1983)

Sri Jagdish Saran and others Applicants.

Versus

Union of India
and another Respondents.

Hon. Mr. Justice U.C. Srivastava, V.C.
Hon'ble Mr. K. Obayya, Member (A)

(By Hon. Mr. Justice U.C. Srivastava, V.C.)

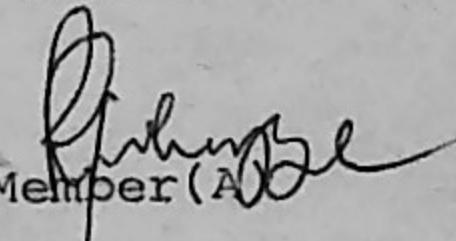
This is a transferred case under Sec. 29 of the Administrative Tribunals, Act 1985. The applicant filed a writ petition before the High Court of Judicature at Allahabad praying that a writ of certiorari be issued calling for the records of the case and quashing the order dated 3.3.1983 so far it relates to the applicants from the grade-III of Tele communication Maintainer to the grade of Khalasi; and further a mandamus be issued directing the respondents not to revert the applicants from the grade of Tele Communication Maintainer to the grade of Khalasi on the basis of the order dated 3.3.1983. This order was challenged by the applicant on the ground that the applicants were promoted since they were declared successful in the trade test and no such condition was attached either to the order of promotion or any time thereafter to the effect that the promotion of the applicants is being made on adhoc basis against the quota reserved for direct recruits, and their appointments were not against the quota reserved for the direct recruits, as such, the petitioner can not be held liable merely because

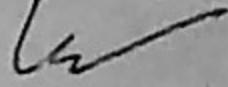
some of the direct recruits have joined. The policy of the railways has been that the recruitment is made always through one source viz. either from the promotees or from the direct recruits and in case, there is no quota prescribed in the grade of Tele-Communication Maintainer, the same can be maintained in further recruitment and promotion, and even in the past also the promoted were promoted in excess of their quota and they were never reverted. Even assuming the applicants are promoted on adhoc basis and they, having worked for more than 18 months have acquired right to work on the post of Tele-communication Maintainer and they can not be reverted except after following the procedure prescribed in the Railway Servants (D & A) Rules, 1968.

2. The applicants were recruited as Khalasis in Signal and Tele-communication department of the Northern Railway in Moradabad Division for more than 5/6 years, and were entitled for promotion to the next higher grade i.e. Tele communication, Maintainer. They ~~were~~ appeared in the trade test for promotion to the said post and the result of the aforesaid trade-test was declared and the applicants were declared successful in the aforesaid trade test and became eligible for promotion from the post of Khalasi to Tele-communication Maintainer Grade-III in the scale of Rs. 260-400. The applicants by the orders dated 6.9.1980, 31.5.1981, 5.12.1981 and 24.11.1982, have been promoted as such and they have completed the refresher course but by the impugned order dated 3.3.1983, they were reverted.

3. The respondents have refuted the claim of the applicants and have stated that 50% of the vacancies of TCM Grade-III Rs. 260-400 are filled by direct recruitment and out of the remaining 50%, 25% are filled by screening of casual labour, artisans and rest are filled by promotion from Telecom Khalasi scale of Rs. 196-232 on passing the requisite training and trade test on seniority basis, in accordance with the orders of the Railway Board issued vide letter dated 4.11.1974. The applicants were, however, promoted in the direct recruitment quota and not against the promotee quota although, they appeared in the trade test and were found suitable. The promotion order itself indicates that they were promoted on adhoc basis against the direct recruitment quota and as the candidates of direct recruits were available, the applicants were reverted. As the applicants promotion was not the regular promotion but was conditional promotion and the condition having been fulfilled, the applicants have no right to the said post. As the applicants were promoted against the direct quota because the promotees were not available, there and it is not the case that ~~there~~ was a break down of the quota system and for years together, the applicants were allowed to continue to work as such. During this period, out of 50% of promotional quota, the applicants were entitled to be promoted. The applicants were reverted by the respondents without taking into consideration the fact that they having been passed the suitability test therefore, there was no question of their reversion, except that their seniority could have been pushed down in case

~~in case~~ the promotees quota were still available.
~~whereas~~ Accordingly, the respondents are directed to consider the position of the applicants and in case during all these period, the vacancies of the promotees quota are available, the applicant may be fixed on that position and let this consideration be done within a period of 3 months. The application is disposed of with these observations. No order as to costs.


Member (A)


Vice-Chairman

Dated: 1.9.1992.

(n.u.)