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RESERVED.

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD.

Registration (O.A.) No. 580 of 1987

Jokhan Giri & others	Applicants.
Versus		
Chairman, Railway Board, Rail Bhawan, New Delhi & others	Respondents.

Hon'ble D.K. Agrawal, J.M.
Hon'ble R. Balasubramanian, A.M.

(By Hon. R. Balasubramanian, A.M.)

This is an Application under Section 19 of the Administrative Tribunals Act XIII of 1985. The applicants have prayed that the respondents be directed to promote the Goods Guard (Gr. 'B') to the post of Passenger Guard formerly Guard Gr.'A' insofar as to the extent of the vacancies in existence till 31.12.1986 prior to the issuance of the order dated 5.2.1987 and not to apply order dated 5.2.1987 for filling the post of Passenger Guards on the basis of selection insofar as to the post in existence on 31.12.1987.

2. The case of the applicants relates to the promotion to the grade of Passenger Guards which came into being on restructuring that took place in the Railways w.e.f. 1.1.1984. The applicants have alleged that a number of vacancies were available but the Railway administration did not give effect to the promotions and accumulated the vacancies. It is only when the orders dated 5.2.1987 (Annexure '3' to the application) were issued, the administration started filling up the vacancies in accordance with the new procedure. While according to the earlier procedure, ^{promotion} selection was on seniority basis, according to the new procedure, promotion was on selection basis. The contention of the applicants is that the vacancies should be treated into two distinct categories - (a) those which existed prior to 31.12.1986 and (b) those arose after 31.12.86, and that the former should be filled up on seniority basis while the latter should be filled up by selection basis in accordance with the new procedure. According to the applicants, the letter dated 25.6.1987 of the Railway Administration announcing the written test for promotion to the post of Passenger Guards was incorrect

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since it did not give 21 days' notice. They have also alleged that he test on 3 different dates (11.7.1987, 12.7.1987 and 18.7.1987) for promotion to the same post from amongst the same categories could lead to undesirable practices involving prejudices and discriminations. They have prayed that we should direct the respondents that vacancies should be divided into two parts as required by them and effect the promotion to the vacancies prior to 31.12.1986 on the basis of seniority. They have also prayed for an interim order that pending a final decision on this application the operation of the notice issued by the administration dated 26.5.1987 be stayed and not to hold the selection during the pendency of the application.

3. In the reply, the respondents, have dealt with at large regarding the number of vacancies. They have stated that for holding selection test, a notice of 15 days would suffice and that in this case 15 days notice was available. They have also pointed out that the written test had to be held on 3 different dates so that all eligible candidates are not withdrawn at the same time for the purpose of test to avoid dislocation of the train services. They have pointed out that the question papers set by the administration covered the areas to which Guards were expected to be well acquainted with.

4. We have carefully considered the contentions raised on behalf of the parties and examined the record of the same. The method of promotion has been changed by the Railway Board w.e.f. 5.2.1987. The order dated 5.2.1987 clearly lays down that the promotion will be made by selection and also that any vacancy after the crucial date (5.2.1987) will be filled up according to that order irrespective of when the vacancies arose. There is no justification whatsoever to depart from the circular of 5.2.1987 and we do not, therefore, agree that the vacancies should be split into two distinct groups to be filled up on different basis. This does not cause any injury to the applicants because they are at liberty

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to appear for the test along with others and take the chance. The application is, therefore, liable to be dismissed.

5. In the result, the application fails and is accordingly dismissed without any order as to costs.

Viswanathan
MEMBER (A). 28/7/89

Dr. Agarwal

MEMBER (J).

Dated: July 28th, 1989.
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