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Reserved

Central Administrative Tribunal, Allahabad.

Registration O.A.No. 1151 of 1987

Prem Chand and others

...

Applicants

Vs.

General Manager N.E.Railway
Gorakhpur and others

...

Respondents

Hon.D.S.Misra,AM
Hon.G.S.Sharma,JM

(By Hon.G.S.Sharma,JM)

This petition u/s.19 of the Administrative Tribunals Act XIII of 1985 was filed by 9 applicants on 30.11.1987 for a direction to the respondents -General Manager and Deputy Chief Engineer Bridge Workshop N.E. Railway Gorakhpur to decide their representations annexures 2 to 5, 5-A and 10 and for further direction that the respondents should treat the work charge post as vacancy for implementing the decision dated 2.7.1979 of the Allahabad High Court in writ petition nos.1724 of 1978 and 4888 of 1978 and for a further direction that for the purpose of implementation of the said decision only the petitioners to the said writ petitions to the exclusion of others should be considered and the petitioners be given appointments. The applicants alleged themselves to be the wards of loyal railway employees, who did not resort to strike at the time of the general strike of the railway employees in 1974. It is alleged that as a token of the appreciation of the loyalty of the said railway employees, the Railway Board had reserved 20 per cent vacancies in class III and class IV services for the wards of the loyal railway employees vide letter dated 13.2.1974. Apprehending that the respondents were not implementing the said directions faithfully and properly, the applicants and

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some other persons filed the aforesaid two writ petitions for their appointment against 20 per cent vacancies. The said writ petitions were heard together and vide its final order dated 2.7.1979, copy annexure 1, the High Court decided the said writ petitions in the following terms :-

" In the result, both these writ petitions succeed and are allowed to this extent that respondents 1 and 2 are directed to expeditiously ascertain actual number of vacancies during the period 3rd May 1974 to 30th Sept. 1976 in class IV category of employees and to appoint such number of those selected candidates whose names find place in annexure 'D' to the writ petition under the 20 per cent quota of loyal workers after giving the adjustment to such appointments as may already have been made in pursuance of the said quota. There will be no order as to costs."

2. It appears even after the decision in the said writ petitions, there was some dissatisfaction and representations, copies annexures 2 and 3, were made on behalf of the wards of loyal workers of the Bridge Division for their appointment. These two annexures do not bear any date and names of the persons who had signed the same. Another representation dated 6.1.1982 annexure 4 was made by the Divisional Secretary of the Railway Employees Union for reexamination of the representation made by certain persons on 7.12.1979 and 5.8.1981. On 5.8.1981, the applicant no.1, 2, 4 along with one other person made a representation, copy annexure 5 to the General Manager for their appointment in accordance with the decision of the High Court. Annexure 5-A is the copy of the representation dated 30.4.1982 made by the Divisional Secretary of the Railway Employees Union for a meeting to consider the ~~question~~ question of appointment. The last annexure stated to be undisposed of ^{is under} ~~first~~ representation dated 5.11.1985

by four applicants for their appointment after recalculating the vacancies. The present petition is not within time prescribed u/s.21 of the Administrative Tribunals Act XIII of 1985 from the date of any representation. The applicants have moved an application for condoning the delay on the ground that on 5.12.1985 a writ petition was filed by them in the High Court which was dismissed on 27.10.1987 due to the establishment of this Tribunal and the present petition was filed without much delay. In our opinion, the cause shown for the delay is not sufficient. In Dec. 1986, the Hon. Supreme Court had upheld the validity of the ~~Karnatak~~ Administrative Tribunal Act XIII of 1985 and the establishment of the Central Administrative Tribunal and in January 1987 a Full Bench of the Allahabad High Court had decided that the writ petitions filed in the High Court which ought to have been filed before the Tribunal after its establishment have to be dismissed. The applicants, therefore, unduly delayed the filing of their petitions. We further feel that the limitation will start from the first representation made by or on behalf of the applicants and not from the subsequent representations.

3. We further find that the order dated 2.7.1979 of the High Court in the earlier writ petitions is quite clear on the point that only the vacancies existing during the period 3.5.74 to 30.11.76 in class IV category were to be taken into consideration and only against such vacancies 26 per cent vacancies were to be treated reserved for candidates whose names found place in

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annexure D to the writ petition. We are not supposed to review, alter or modify the said directions. The only new question raised in the present application is that the reservation has to be worked out even taking into consideration the work charge post. The relevant letter of the Railway Board has not been placed on the record and we will advise the General Manager-respondent no.1 to consider this aspect of the case for the proper implementation of the directions of the High Court in their letter and spirit. Otherwise, we do not find it to be a fit case for adjudication.

4. The petition is disposed of finally at the admission stage.

Subarao

MEMBER (J)

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29/7/88

MEMBER (A)

Dated 29th July 1988
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