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RESERVED.

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD.

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Registration (O.A.) No. 325 of 1988.

D.K. Singh and another Applicants.
Versus
Chairman, Railway Board & ors. Respondents.

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

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

In this original application filed under Section 19 of the Administrative Tribunals Act XIII of 1985, the applicants have prayed that the respondents be directed to promote the Goods Guards to the post of Passenger Guards 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 only on the basis of seniority 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 facts of the case, in brief, are that the applicants were originally Railway Guards in the Grade 'C' and subsequently promoted as Guards Gr.'B'. From 1.1.1984, certain restructuring was effected creating four grades of Guards. The letter of restructuring of the cadre of Guards was issued on 25.6.1985 giving effect to the restructuring from 1.1.1984, annexure '1' to the application. According to the applicants, though there was pressing need to fill up the vacancies in the various grades, the administration was never keen to make appointments, particularly on the leave reserve posts. They have gone about giving calculation about the vacancies in Guards Gr.'A' in which they are interested. The case

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of the Applicants is that prior to ²³5.2.1987, promotion to the category of Guards Grade 'A' (Special) was by way of seniority from the grade below. Subsequently, by an order, the Railways had formulated that w.e.f. 5.2.1987, promotion to this grade would be only on selection basis. The contention of the Applicants is that though a number of posts were available earlier, the Railway Administration did not fill them up on the seniority basis and they waited till the issue of the orders of 5.2.1987 and now the Railway Administration wants to give effect to the promotions on a selection basis by holding the required test. Their contention is that the order dated 5.2.1987, which requires ~~that the~~ selection, should be applied only to the vacancies arising after that date and those existing prior to 5.2.87 should be filled up on seniority basis. They have also alleged that the Railway authorities had announced the test by a letter dated 22.7.87 which did not give sufficient notice to the candidates. The rule requires 21 days notice whereas notice available to them was much less than that. Their allegation is that the selection was to take place on 3 different dates for the same promotion and from amongst the same category of persons. They apprehended that this might lead to undesirable practices involving prejudice and discrimination. Therefore, the Applicants prayed that we should direct the Respondents that in respect of the vacancies existing prior to 31.12.1986, promotion should be made on the basis of seniority only. They had also prayed for an interim order to the effect that pending decision on the Application, operation of the notice dated 25.6.87 be stayed.

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3. The respondents in their reply have disputed the allegations made by the applicants and according to them, there was no vacancy prior to 5.2.1987 in the category of Grade 'A' in the Varanasi Division (para 21 of the reply). The respondents have also pleaded that under the rules a notice of full fortnight for holding selection would suffice and that the notice issued on 22.7.1987 had given them adequate time. According to the respondents, the allegations made by the applicants ~~to the effect that~~ ^{on} holding the test on different dates for the same post and from amongst the same category of persons, was not tenable. They pleaded that under the rules, there is a provision of supplementary selection and in this case, one test was held on 9.8.1987 and another test was held on 17.8.1987 for those who were not present on 9th (para 23).

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 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.

P. Balasubramanian
MEMBER (A). 28/7/89

Dr. C. S. Rao
MEMBER (J).

Dated: July 28th, 1989.

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