

(Reserved)

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH, ALLAHABAD

Allahabad this the 9 day of January 2002nd

Q U O R U M :- Hon'ble Mr. Justice R.R.K. Trivedi, V.C.
Hon'ble Mr. C.S. Chadha, Member- A.

Original Application No. 669 of 1992.

1. Mohd. Harun Ansari s/o Sri Sbdul Raoof
a/a 34 years, R/o 180/154 B, Shahganj, Allahabad.
2. Sheo Chandra Prasad Sinha s/o Sri D.N. Sinha
a/a 35 years. R/o 551-E, Ghanshyamnagar Colony, Alld.
3. Subhash Chandra a/a 39 years, s/o Sri N.L. Gupta
R/o 78-A, Bhusauli Tola, Khuldabad, Allahabad.

.....Applicants

Counsel for the applicants :- Sri S.K. Om

V E R S U S

1. Union of India through the General Manager,
Northern Railway, Head Quarter Office, Baroda House,
New Delhi.
2. General Manager (Personnel), Northern Railway,
H.Q. Office, Baroda House, New Delhi.
3. Chief Personnel Officer, Northern Railway, H.Q Office,
Baroda House, New Delhi.
4. Divisional Railway Manager, Northern Railway,
Nawab Yusuf Road, Allahabad.
5. Senior Divisional Personnel Officer, N. Rly.
D.R.M. Office, Nawab Yusuf Road, Allahabad.
6. Anand Prakash Sharma, Sr. Clerk working under
Sr. Divisional Electrical Engineer,
Rolling staff, Electric Shed, Fazalganj, Kanpur.
7. Smt. Sushila Verma, Sr. Clerk, working under Sr.
Divisional Commercial Superintendent, D.R.M Office,
Northern Railway, Allahabad.

8. Smt. Sashi Kiran Gupta, Sr. Clerk, working in works
Branch, D.R.M. Office, Northern Railway, Nawab Yusuf
Road, Allahabad..... Respondents.

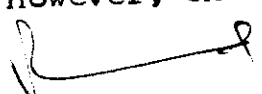
Counsel for the respondents : Sri N.K. Shukla.
Sri T.N. Koel.

O R D E R

(By Hon'ble Mr. C.S. Chadha, Member-A.)

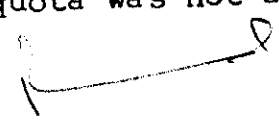
This application under section 19 of the Administrative Tribunals Act, 1985, has been filed by the three applicants namely Mohd. Harun Ansari, Sheo Chandra Prasad Sinha and Subhash Chandra, together, because the cause of action is exactly similar. These three applicants were all appointed as Junior Clerks in the grade of Rs.260-400 in the Railway Divisions of Lucknow, Jodhpur and Lucknow respectively but sought transfer to Allahabad Division agreeing to lose seniority. All of them were working as Junior Clerks and the next promotion available to them was to the post of Senior Clerk in the grade of Rs.330-560. The Railways, in the year 1981, extended the cadre of ministerial staff and increased the posts of Senior Clerks to 57.5% of the strength of the ministerial staff, leading to a higher number on vacancies being made available. Secondly, the quota of Senior Clerks to be promoted from the cadre of Junior Clerks was fixed at 13.33% and the higher Railway authorities directed all sub-ordinate offices to inform them about the number of vacancies which had arisen as a result of the increase in the number of posts of Senior Clerks.

2. The promotion to the post from Junior Clerk to Senior Clerk is carried out on the basis of a written examination followed by viva-voce test. Such an examination was held in 1985 for which the higher Railway authorities had asked the Allahabad Division to notify the vacancies. The Allahabad Division had notified 43 vacancies for promotion to the grade of Senior Clerk from the Junior Clerk as on 31.10.1983. However, the result of the



examination was declared on 23.9.1985 and 31.10.1985 vide (Annexure A-4) by which time the number of vacancies available for this quota had gone up from 43 to 52. After the result, the D.R.M., Allahabad promoted and posted, in the Allahabad Division, only 43 clerks because that was considered to be the number of vacancies available in the promotion quota upto 31.10.1983. The number of candidates, who had passed the examination was more and, therefore, 15 clerks were posted out of Allahabad Division on promotion. Their list is available at Annexure A-4, internal page 3. The applicants were at Sl.No. 7, 12 and 15 thereof and were, therefore, required to go out of Allahabad. The D.R.M. Allahabad did not relieve them because he realised that he would be short of trained hands and, therefore, he requested C.P.O., Northern Railway on 8.11.1985 and 28.1.1986 as per Annexures A-5 and A-6 to adjust the applicants against further vacancies which were available, although after the September, 1983 but by 1985, when the result was declared. For some strange reason, this was not acceded to and the request to adjust them against the 20% quota reserved for direct recruitment was also turned down. The applicants have brought it to the notice of the Tribunal that although this request was turned down with respect to the applicants and the request of Allahabad Division alone, such relaxation was given in other Divisions, specially, in the H.Q. Division at New Delhi. So much so that in Delhi vide Annexure A-7 dated 4.5.1987, the management went to the extent of adjusting all the selected Junior Clerks to be promoted as Senior Clerks, even against the 20% vacancies meant for direct recruits.


3. It has, therefore, been brought to our notice that the applicants had passed the necessary tests for promotion they were not relieved by the Allahabad Division authorities themselves, and their adjustment against the available vacancies in their own quota was not acceded to whereas



similar adjustments were made in other Divisions. The applicants have also brought to our notice that in an exactly similar case, this Tribunal passed an order in O.A.113/87 on 13.9.1991 giving relief to the applicant on exactly similar grounds, the Tribunal had held that the applicant had been deprived of his promotion for no fault of his as he was neither relieved to join as a Senior Clerk elsewhere nor was he adjusted against direct recruit quota vacancies in his own division and, therefore, not only directed the then respondents to promote the applicant to the grade of Senior Clerk of Rs.330-560 but also directed that the placement shall be with retrospective effect with consequential benefits.

4. We have heard the learned Counsels for the parties. We find that the respondents have merely given the excuse of lack of vacancies in the promotion quota as on 30.9.83 for their action but have not been able to defend the arbitrary action of allowing the placement of selected candidates even against direct recruitment quota in some Divisions and refusing the same benefit to the applicants of Allahabad Division. In this case even when vacancies existed in the promotion quota at Allahabad itself, the promoted candidates were not adjusted against them. It is also admitted that the applicants were not relieved on promotion and the G.M., Allahabad repeatedly requested the higher authorities to place the applicants in the higher scale at Allahabad itself and did not permit them to go to other division to join the promoted post.


5. Looking to the facts and circumstances mentioned above and relying on the judgment of this Tribunal in the afore-mentioned O.A., which was not challenged by the Railway in a higher court, we direct respondents that the three applicants of this O.A. shall be promoted w.e.f. the date when such benefits were also given to others, who passed



the same examination together with the applicants, and they shall be retained at Allahabad where they have been working since about 16 years at a stretch even after their selection as Senior Clerks. This benefit will be available with retrospective effect and arrears of salary and the benefit of revised pay fixation and consequential benefits shall be available from the original date of promotion which was due to them, i.e. 31.10.1985.

6. There will be no order as to costs.


Member- A.


Vice-Chairman.

/Anand/