

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH,
ALLAHABAD.

Dated: Allahabad, the 12th day of December, 2000.

Coram: Hon'ble Mr. S. Dayal, A.M.

Hon'ble Mr. Rafiq Uddin, J.M.

Original Application No. 1561 of 1993

1. Vindeshwari Jha, son of Sri Sahdeo Jha
2. M.P. Shama, son of Sri R.S. Shama,
3. Shadi Lal,
4. Subhash Upadhyay, son of Sri R.D. Upadhyay,
5. T.N. Majumdar, son of Sri R.N. Majumdar,
6. R.D. Ram, son of Late Sri Lehra Ram,
7. R.C. Rai, son of Sri R.P. Rai,
8. S.M. Lal, son of late Sri Guru Charan Lal,
9. Rajani Kant, son of late Sri Uma Kant,
10. Gyan Prakash, son of late Sri Guru Prasad Srivastava.
11. S.N. Gupta, son of late Sri Saligram Gupta,
all c/o Shri Vindeshwari Jha, 225 Baba Naubasta,
Kanpur.

..... Applicants

Versus

1. Union of India through its Secretary,
Ministry of Railways, New Delhi.
2. General Manager, Northern Railways,
Baroda House, New Delhi.
3. Chief Electrical Engineer (Principal),
Northern Railways, Baroda House,
New Delhi.

..... Respondents

O_R_D_E_R

(Open Court)

(By Hon'ble Mr. S. Dayal, A.M)

This application has been filed for setting
aside the process of selection for the post of Assistant

Contd..2

Electrical Engineer Group B and setting aside the result of the Examinations held on 4.9.93 and 11.9.93. A further direction to the Respondents has been sought to comply with the judgment passed by the Principal Bench of the Tribunal before any selection is made to the post of Assistant Electrical Engineer Group B.

2. The case of the applicant is that the Principal Bench by its order dated 21.2.1992 in OA No.836/99 directed the Respondents to consider the question of classification against the Group B and to remove the anomaly. The Respondents instead of complying with the judgment, organised written test for Group 'C' for filling up 23 posts of Group 'B' in the cadre of Assistant Electrical Engineer. The written examination was not conducted properly and was organised in a manner, in which it facilitated men favoured by the Respondents to get selected. The applicants have, thus, sought two reliefs- the first that the posts held by them be declared as a Group 'B' posts and the second relief is that the selection of post of Assistant Electrical Engineer be set aside.

3. As far as the first relief is concerned, it is based on the directions in O.A. No.836/99 by an order dated 21.2.1992, which reads as follows:-

" In view of the above, we direct the Respondents to consider the question of classification so as to do away with the anomaly of the type indicated above. Consequently, it is directed that the Respondents reconsider the matter of placing the members of the Association in the grade of Rs.2000-32000 and Rs.2375- 3500 in Group 'B', as has been done in the case of other Government Servants like Accounts Officers (Rs.2375- 3500) in Railways and Stenographers Grade Rs.2000-32000 in the Central Secretariat in the same scales within

a period of two months from the date of receipt of a copy of this judgment. With these observations, the O.A. stands disposed of finally. There shall be no order as to costs."

The learned counsel for the applicant has contended that the Indian Railways Technical Supervisors' Association had filed O.A. No.836 of 1989 claiming that Deputy Shop Superintendent, Loco Foreman, Chief Traction Foreman, Assistant Foreman and other similar posts, which are inter-changeable, be allowed placement in the Grade of Rs.2000- 3200 and Rs.2375- 3500 in Group B as was given to the Accounts Officers in the Railways and to Stenographers in the Secretariat.

The learned counsel for the applicant also based his claim on the recommendations of the IVth Pay Commission, in which a recommendation was given for the posts having maximum of pay-scale not less than 2900 but less than Rs.4000/- be classified as Group 'B'. It was contended that the applicants were entitled to get the status of Group 'B' automatically without any written examination on the basis of this recommendation. It was also contended that the respondents had also been empowered to take disciplinary proceedings and trade test under the rules. It is also contended that the counterparts of the applicants in C.P.W.D., M.E.S. and Tele-communications were given Group B status. The learned counsel for the Respondents has placed before us a letter of the General Manager (Legal Cell) of Northern Railway, in which the directions given in O.A. No.836 of 1989 have been considered and rejected on the ground that the scale of pay alone was not the criterion for classification and the other sectors

similar differences in

like education also existed, in which similar pay-scales were classified as Group 'C' and Group 'B'. It was also rejected on the ground that if such classification is given, the parity existing in the department would be disturbed, giving rise to a demand of revision of scales of pay of those groups which are already classified as Group 'B'. It was also mentioned that there were about 8000 posts in Group 'B' in the scale of Rs. 2000-3500, carrying the duties and responsibilities higher than those of Supervisors. There are 39th posts of Technical Supervisors in the pay-scale of Rs. 2375- 3500 and in the grade of Rs. 2000- 32000, which are classified as Group 'C' and their inclusion in Group 'B' would create further anomalies. The Respondents have referred the judgment of the Administrative Tribunal in OA No.13 of 1988 dated 26.4.1991, in which no justification was found in the contention of the applicant that denial of Group 'B' Gazetted status to the Railway staff in the pay-scale of Rs. 2000- 35000 was discriminatory and violative of Articles 14 and 16 of the Constitution of India. The aforesaid letter dated 14.5.1992 of the General Manager (Legal Cell) also shows that the recommendations of the IV th Pay Commission be considered and the Commission had recommended that the existing system of classification of posts may be continued and had indicated corresponding scales in the revised pay structure. In this case, Paras 26.49 and 26.52 of the Report of the IV th Pay Commission have been specifically referred.

4. We find that the applicants' claim is based on mere pay-scales. Although the applicants have referred to recommendations of the IV Pay Commission but nowhere

showed that these recommendations were adopted by the Government in to to. They appear to have been considered in certain specific cadres and appropriate decisions taken. It is not shown as to how the applicants can claim to be similarly situated with the posts which were included in Group 'B'. Another pay Commission has intervened since this O.A. was filed and the recommendations of the ~~W~~th Pay Commission with regard to the claim of the applicant have not been shown. Hence, we do not find any justification in the claim of the applicant that they were entitled to be given the benefit of the judgment in OA 836 of 1989. The directions given in the O.A. have been adequately considered in the letter of the General Manager (Legal Cell), referred to above, dated 14.5.1992.

5. So far as the question of selection held for the post of Assistant Electrical Engineer is concerned, applicants have mentioned that the written test for Group 'C' for filling up 23 posts of Assistant Electrical Engineers was notified by a letter dated 15.7.1993. The Respondents did not follow the 3 years formula and called 93 employees for filling up 23 vacancies and a list of 16 persons was issued as waiting list. It is further mentioned that in the Examination held on 4.9.93, only 4 persons appeared and since less than 50% of employees have appeared, the examination should have been cancelled or postponed. In the subsequent supplementary examination held on 11.9.1993, 46 employees appeared, which were included in the list circulated by the department. The Respondents in their

counter reply have denied the allegations and have contended that they followed the rules for selection of candidates.

6. We find from Annexure No. A-2 to the O.A., which is letter dated 15.7.1993 that the Headquarters office, Baroda House informed its lower formations about holding of written tests held on 4.9.93 and 11.9.93. The list contained the names of applicants also. A list of reserved candidates was also given, which consisted ^{of 1} persons, who would be called, in case the candidates in the first list submitted their unwillingness before the written test. The learned counsel for the applicants contends before us that the dates of examinations were not communicated to the applicants nor they were given pre-selection coaching and relieved for taking the written test. The applicants had filed supplementary affidavit along with Misc. Application No. 2307 of 1993, in which they have given the list of successful candidates in the written test. Those successful candidates belonged to the office in Allahabad, Kanpur, New Delhi etc. and the letter dated 15.7.1993 was marked to all such officers. It cannot be presumed that the applicants had no notice, because there is no averment that individuals were given notice.

7. The learned counsel for the applicants mentions that the officers were bound to inform the applicants and relieve them for pre-selection coaching for those, who had to appear in the written examination. However, prior to this, it is also mentioned that it was the

responsibility of the candidates to advise his willingness or unwillingness to take the selection immediately on receipt of information and failure to respond or provide the intimation was to be treated as unwillingness on the part of the candidates to take selection. Hence, we are not convinced that the applicants were not furnished information about the test. The interim relief suggests that the applicants sought equation of their posts with the posts in Group 'B' and expected that their representation would be allowed and did not appear in the written examination.

8. We find no merit and the Application is, therefore, dismissed as having no merit. There shall be no order as to costs.

Ramgopal
J.M.

A.M.
A.M.

Nath/