

Revised

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
ALLAHABAD BENCH, ALLAHABAD.
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ORIGINAL APPLICATION NO. 1723 of 1993.

this the 26th day of April 2001.

HON'BLE MR. RAFIQ UDDIN, MEMBER (J)
HON'BLE MR. S. BISWAS, MEMBER (A)

Subhash Singh, S/o Sri U.R. Singh.

2. V.K. Misra, S/o Sri P. Misra.
 3. S.K. Chaubey, S/o Sri J. Chaubey.
 4. Gopal Choudhary, S/o Sri B.M. Choudhary.
 5. Lal Saran, S/o Sri Hira Lal.
 6. C.N. Rai.
 7. Madhuresh Jha. S/o Sri D. Jha.
 8. B.K. Singh, S/o Sri M.K. Singh.
 9. Girja Prasad.
 10. M.K. Suri, S/o Sri M.R. Suri.
 11. Ramesh Singh, S/o Sri S.P. Singh.
 12. Alakhnarain Singh S/o Sri R. Singh.
 13. Gautam Jee Singh, S/o Sri B.P. Singh.
 14. Manik Ghosh, S/o Sri J. Ghosh.
 15. B.K. Singh. S/o Sri B.P. Singh.
 16. S.P. Srivastava, S/o Sri B.N. Prasad.
 17. Om Prakash, S/o Sri Gharbhari.
 18. P.K. Singh, S/o Sri Shanker Singh.
 19. R.P. Yadav, S/o Sri Mangru Yadav.
 20. Akhilesh Kumar Singh.
- All are posted as ESM Gr. II M.S.M. Gr.II and
III u/gr. DSTE S&T department E. Railway, Moghalsarai.

Applicants.

By Advocate : Sri S.K. Dey.

versus.

S. D. Union of India through the General Manager, E. Railway,
Calcutta.

2. The Chief personnel Officer, E. Railway, Calcutta.
By Advocate : Sri A.V. Srivastava. Respondents.

O R D E R

S. BISWAS, MEMBER (A)

By this application under section 19 of the Administrative Tribunals Act, 1985, the applicants have sought the following reliefs :

(i) quashing of order dated 6.10.93 (Annexure-3) and direction to respondents for consideration of the applicants for the post of Telecom. Inspector against direct quota and any other relief considered in the case.

2. ⁽ⁱⁱ⁾ The applicants are employees in the Railways. They were recruited between 1986 to 1989. Applicant nos. 1 to 9 joined the railways department as Electrical Signal Maintainer Gr.II in the scale of Rs. 1200-1800 (RP) and the remaining applicant nos. 10 to 20 joined as Signal Maintainer Gr.III in the scale of Rs. 950-1500/- (RP). The applicant nos. 1 to 6 & 8 to 17, 19 & 20 are diploma holder in Engineering and the applicant no. 7 and 18 are B.Sc with Physics. That for the post of Inspector Gr.III and Telecom Inspector in Signal and Telecom. Department, the scale of pay is Rs. 1400-2300/- and the qualification was diploma in Engineering or B.Sc (Physics). All the applicants fulfill the requisite qualification for the said post.

3. The applicants alleged that in order ^{to} filling these posts of Telecom Inspectors and Signal Inspectors, in the grade of pay-scale of Rs. 1400-2300 (RP) in the Signal Telecom Department by direct recruitment, the respondents vide the impugned circular dated 6.10.93 excluded the applicants but extended the facility ^{SB} ~~in direct recruitment~~ ^{SB} of participation in direct recruitment by calling for options exclusively from the serving Asstt. Drivers in Diesel and Electrical department only who were in the scale of Rs. 950-1500, whereas, the applicants holding the same qualifications, serving in the similar scale of pay have been excluded from this D.R. facility.

The impugned circular dated 6.10.93 has been challenged as discriminatory and the Asstt. Drivers in Diesel and Electrical have no experience in Signal Telecom Department.

4. The respondents have countered these facts and arguments stating that the O.A. is hit by limitation. Further, the applicants enjoy an exclusive channel of promotion to Signal Inspector Gr.III prescribed for them under para 147 of IREM Vol. I, revised edition 1989. The channel of promotion is similarly different for Telecom. Inspectors Gr.III (Rs.1400-2300/-) as laid down in under para 148 of IREM Vol.I revised edition 1989. In both these streams, it is pointed-out that there are feeder grade for 20% and 30% promotion quota to the post of Telecom Inspector (Safety posts) and for Signal Inspector Gr.III also in the same scale of pay (Rs. 1400-2300/-) there is a 20% promotional quota available for the applicants in the latter stream.

5. Heard both sides and have gone through the case records and law points.

6. It has been brought to our notice that as per Rules 147 & 148 cited above, there are separate avenues of promotion for the Telecom (safety posts) and Signal department. In both streams, there are interim scale of pay Rs. 1400-2300/- which are respectively available ^{for} promotion as Signal Inspectors and Telecom Inspectors. The respondents' counsel has also brought to our notice the fact that the department had already advertised on 2.9.94 the 20% vacancies to be filled in the grade of Signal Inspectors (Rs.1400-2300) from amongst the applicants by holding an examination, for ^{which} ~~the~~ purpose options were called-for. Another advertisement ⁱⁿ was also issued on 8.9.94 calling for option to fill-up 40% promotion quota in the grade-III Signal Inspector (Rs.1400-2300/-). This was open to ESM and MSM Gr.I

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The applicants' counsel has also brought to our notice a very ^Utenous issue that the direct recruitment facility was extended to the serving Asstt. Drivers from the Diesel and Electrical departments as a special favour though they were having no experience in telecom. department. The same facility of direct recruitment was not extended to the applicants holding adequate qualifications for D.R. The Rules do not provide for such facility to serving personnel. The applicants showed us in the rules (138) that the serving Asstt. Drivers are not placed at a dis-advantage as far as channel of promotion is concerned. Under paras 137 & 138 of IREM Vol. I revised edition 1989, these categories of personnel too have avenues of promotion to them.

8.

The respondents except stating that the signal side is having adequate self contained channel of promotion, have not been able to state satisfactorily, why the notification dated 6.10.93 was warranted to be issued extending the direct recruitment quota facility only to the serving Asstt. Drivers and not other serving and qualified categories of staff/personnel having experience in such jobs. In our view, the said option calling ~~letter~~ ^{from Asst Drivers and is} ~~is~~ discriminatory and outside the purview of the Rules brought before us. We have gone through these rules in para 147, 148, 137 and 138 (ibid) and find that there are provisions for direct recruitment though from the open market by Railway Board, ~~the~~ said Rules are, however, silent on any special facility to Diesel and Electrical staff and do not provide ^{least} ~~that~~ any group or category of serving staff is to be given the facility of direct recruitment ~~ment~~, with any prejudice to other serving groups or category of serving personnel having the requisite qualification to sit for the direct recruitment. The notification dated 6.10.93 is distinctly, illegal and discriminatory. Hence the same is liable to be quashed. We, however, do not accept the plea of the respondents that the O.A is time barred. The impugned circular dated 6.10.93 gives an indication that certain surplus staff were given this extra-

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ordinary facility outside the provisions of the rule. The respondents failed to spell that clearly. We, therefore, quash the impugned notification dated 6.10.93 with prospective effect with the directions that such notification would in future be issued after amending the rules. In the aftermath, of this order, we do not intend to extend any facility to the applicants on the basis of an illegal action of the respondents. No costs.

S. Ban

MEMBER (A)

GIRISH/-

Ravindra

MEMBER (J)