

RESERVED

CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH

ALLAHABAD.

Allahabad this the 6th day of August 2001.

Original Application no. 579 of 1993.

Hon'ble Mr. Justice RRK Trivedi, Vice-Chairman
Hon'ble Maj Gen KK Srivastava, Administrative Member

1. Indian Railway Technical Supervisors Association,
through Shri Narendra Kumar Sinha, Unit Secretary,
Northern Eastern Railway,
GORAKHPUR.
2. Yogendra Sinha, S/o Shri Ram Laxhan Singh,
working as Bridge Inspector, in Bridge whorshops
N.E. Rly., Gorakhpur. Cantt.

... Applicants.

C/As Sri B. Tewari

Versus

1. Union of India through the General Manager,
NE Rly., Gorakhpur
2. Chief Personnel Officer Gazetted North Eastern
railway, Gorakhpur
3. Chief Ekectrical Engineer NE Rly., Gorakhpur
4. Chief Mech Engineer, N.E. Rly., Gorakhpur.
5. Chief Signal & Tele Communication Engineer,
N.E. Rly., Gorakhpur
6. Chief Engineer N.E. Rly., Gorakhpur
7. Chief Vigilance Officer, NE Rly., Gorakhpur
8. Mr. Ram Gopal Dy Chief Engineer, Gorakhpur Area,
N.E. Rly., Gorakhpur
9. Mr. KP Tiwari IOW Gr. II (south) North Eastern Railway,
Gorakhpur
10. Mr. SN Sharma Inspector of Works (Central) Gorakhpur
N.E. Railway.

... Respondents

C/Rs Sri G. Saran

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O R D E R

Hon'ble Maj Gen KK Srivastava, Member-A.

In the present OA filed under section 19 of the Administrative Tribunals Act, 1985, Indian Railway Technical Supervisor Association and another have claimed that post of Technical Supervisor be treated as Group 'B' post and have challenged selection proceedings for the posts of Assistant Engineer LDCE quota for 25% posts. They have sought for the following reliefs :-

- i. North Eastern Railway administration be directed to classify Technical Supervisor in the grade of Rs. 2000 - 3200 and Rs. 2375 - 3500 as group 'B' (Gazetted Officer) with all consequential benefit.
- ii. Set aside the selection proceedings dated 6.3.1993 for the post of Assistant Engineer of 25% LDCE quota of all the four departments of group employees viz Engineering, Electrical, Mechanical and signal departments.

2. Briefly the facts are that the applicant no. 1 is a Registered Trade Union under Indian Trade Union act 1926 for protecting the interests of the members of the association and applicant no. 2 is a Bridge Inspector in Bridge Workshop, N.E. Railway Gorakhpur. The posts of Technical Supervisor are divided in four scales of pay i.e. Rs. 1400 - 2300, Rs. 1600 - 2660, Rs. 2000 - 3200 & Rs. 2375 - 3500 and technical Supervisor of all the categories are eligible to take part in the selection of Assistant Engineers of four departments. Deputy Chief Personnel Officer issued a letter on 31.12.1991 that 25% LDCE vacancies of workshop (Mechanical Department) of N.E. Railway workshop will be filled up by selection. Similar letters were issued on 1.1.1992 for selection of Assistant Engineers

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in Mechanical Department against 25% vacancies (LDCE) Signal and Telecommunication and Electrical Departments. Chief Engineer N.E. Rly., Gorakhpur notified on 24.2.1993 that pre qualifying test for the post of Asstt. Engineer (LDCE) 25% quota will be held on 6.3.1993. The preliminary examination was held on 6.3.1993 and it is alleged that result declared on 13.1.1993 clearly shows that it was prepared in January 1993 itself much before the examination. The plea of the applicants has been contested by the respondents.

3. Heard Sri B. Tewari learned counsel for the applicant and Shri G. Saran learned counsel for the respondents. We have also perused the ^{records} records. Sri Tewari, the learned counsel for the applicant submitted that the ^{technical} Supervisor in the pay scale of Rs. 2000 - 3200 and Rs. 2375 - 3500 should be classified as Group 'B' in view of the notification of Ministry of Personnel Public Grievances and Pension number SO 11752 dated 30.01.1987 which lays down ^{that} "A Central Government Post carrying a pay or a scale of pay with a maximum of not less than Rs. 2900/- but less than Rs. 4000/- ^{be treated as Group B post}. Even the notification dated 20.04.1998 of Ministry of Personal Public Grievances & Pension has classified a Central Civil Post carrying a pay or a scale of pay with a maximum of not less than 9000/- but less than Rs. 13500 (pre revised Rs. 2900 - 4000) as Group 'B' post. The revised grade of Rs. 6500 - 10500 and Rs. 2375 - 3500 is Rs. 7450 - 11500. He has placed reliance on the judgment dated 21.2.1992 of Principal Bench of this Tribunal in OA no. 836 of 1989, Indian Railway Technical Supervisor Association & others Vs. Union of India & others. In the said judgments the respondents were directed to grant the status of group 'B' to the members of association in the

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grade of Rs. 2000 - 3200 & Rs. 2375 - 3500.

4. Challenging the selection proceeding dated 6.3.1993 of N.E Rly., Gorakhpur for the post of Assistant Engineer of 25% LCDE, the learned counsel submitted that these need to be set aside on the following grounds :-

i. that the said selection proceedings was for 25% whereas Railway Board has enhanced the quota from 25% to 30% vide circular dated 16-11-1992.

ii. that Railway Board has laid down through circular dated 26.7.1992 that normally 3 weeks notice for such examination should be given but in the instant case only 6 days time has been given as the impugned letter dated 24.2.1993 (Ann. A-1) notified that the pre qualification test for 25% (LDCE) LDCE would be held on 6.3.1993.

iii. that the questions were not objective in contravention of the direction of the Railway Board Circular dated 2.7.1999 besides setting of question paper in Hindi and English by different officers.

iv. that there has been ^{manipulation} ~~main publication~~ which is clear from the cuttings on fly leafs of answer books and lastly

v. that though pre qualification test was held on 6.3.1993 but the result had already been prepared on 13.1.1993 as ^{in news} ~~is~~ evident from Annexure A-7. Dainik Jagran dated 11.3.1993 published from Gorakhpur also contained a ~~news~~ ^{news} of item to this effect.

5. Sri G. Saran the learned counsel for the respondents controverted the arguments put forth by the petitioner. He submitted that the Principal Bench of the

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Tribunal in OA 836 of 1989 vide its order dated 21.2.1992 directed the Railway Administration to reconsider the matter of placing the members of the Association in the grade of Rs. 2000 - 3200 and Rs. 2375 - 3500 in group 'B' within a period of four months. It did not amount to a direction to the Railway to grant the relief prayed for by the applicants. In compliance to the direction of Principal Bench the respondents reconsidered the issue and rejected the applicants claim ~~for~~ Group 'B' ^{status} by a detailed order dated 27.4.1992. A similar claim raised in OA 17 of 1989 before Principal Bench in AN Srivastava and 20 others Vs. U.O.I. & Ors was considered by Railway Administration on the direction of the Court and Railway Board expressed its inability to grant Group 'B' status to the applicants vide its letter dated 20.11.1991 (Annexure R-XV to the counter reply). The issue stands already settled as similar relief prayed for in OA 2202 of 1992 before the Principal Bench, Indian Railways Technical Supervisor Association & another Vs. Union Of India & Others has been dismissed on 4.1.1996.

6. As regards the selection proceedings dated 6.3.1993 the learned counsel for the respondents submitted that it has been conducted as per the procedure laid down. The percentage in LDCE has been raised from 25% to 30% by Railway Board vide its circular dated 16.11.1992, hence the revised percentage is effective from 16.11.1992 whereas the selection process was started in December 1991 itself. It has been further submitted that the notification for the examination was issued on 6.1.1992 (Annexure R II) and, therefore, enough notice was given. It has been further submitted that only objective questions were given which required answers in one word or short one of 2 sentences.

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There has been no manipulation and the contention of the petitioners that the examiners for English and Hindi versions of the question paper were different is misconceived. It has also been submitted that the matter of Radiogram was typed on stencil paper for getting cyclostyled. There was a typographical mistake i.e. instead 13.3.1993 the date 13.1.1993 was typed which was detected on the same day and the date was corrected as 13.3.1993.

7. We have given due consideration to the submissions of the learned counsel for the parties. There are two issues in the present OA which require to be addressed by us. The first one is about grant of Group 'B' status to the members of Indian Railway Technical Supervisor Association who are in pay scale of Rs. 2000 - 3200 and Rs. 2375 - 3500. The second one is about the validity of pre qualifying test held on 6.3.1993 for LDCE for the post of AEN Group 'B' against 25% of vacancies.

8. As regards the first issue i.e. grant of Group 'B' status to those in the pay scale of Rs. 2000 - 3200 & Rs. 2375 - 3500 we would like to reproduce the judgment dated 21.2.1992 of Principal Bench in OA 836 of 1989. The OA was disposed of with the following directions :-

"....., 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 - 3200, and Rs. 2375 - 3500 in Group 'B' as has been done in the case of other Govt. servants like Accounts Officers (Rs. 2375 - 3500) on the Railway and Stenographers Grade Rs. 2000 - 3200

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in the Central Sactt. in the same scales within a period of four months from the 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 contention of the respondents, that the direction was to reconsider the issue and not that the direction amounted to grant of relief, is correct. Railway Board considered in detail and rejected the applicants claim. The Central Administrative Tribunal, Madras Bench while dismissing the O.A. bearing no. 1038 of 1992 seeking similar relief ^{held} that no judicial interference is required as the matter was examined by the Railway Administration in detail and the claim rejected giving adequate reasons. Madras Bench also subsequently dismissed RA no. 45 of 1995 on 27.4.1995.

Principal Bench in OA 2202 of 1992 has held :-

"In the result we are unable to grant the relief prayed for by the applicants. This OA fails and is dismissed without costs. The prayer in MA-33/95 for referring the matter to a larger Bench is also rejected. Both counsel agree that the decision in O.A. 2202/92 would also cover O.A. nos. 1502/92, 1276/92, 2502/94 and 2503/94. Accordingly those O.As are also dismissed."

9. The issue, therefore, has already been settled and we have no reason to grant the relief prayed for by the applicants.

10. We would now like to discuss the second issue in this O.A. regarding the validity of prequalifying test for LDCE 25% held on 6.3.1993. The perusal of records shows that the process of this selection started in December 1991 and January 1992. This has been admitted by the

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applicants in para 4 (c) (f) and (g) of the O.A. Railway Board issued circular on 16.11.1992 increasing the LDCE quota from 25% to 30% only after the process of selection had already started. Hence action of the respondents in holding the selection for only 25% of vacancies is according to rules prevalent in December 1991 is valid and legal. Notification for the examination and viva voce ^{has} was issued on 6.1.1992 (Annexure R-II) and thus enough notice was given to the eligible candidates for preparation. It has been averred by the respondents in para 18 of the counter ^{with which we are in full agreement.} reply that the questions ^{are} were objective type. The applicants have failed to substantiate their allegation that the questions were subjective and ~~not objective~~. The applicants have also not been able to prove that there were manipulations in the results. We have seen annexure A-7 of the OA on the basis of which applicants have alleged that the result was prepared on 13.1.1993 itself much in advance as the written test was held on 6.3.1993. This has been emphatically denied by the respondents and we have no reason to doubt their submission that it was a typographical error which was corrected on 13.3.1993 before issue of radiogram as also averred in para 17 of the counter reply. Such mistakes are possible in the beginning of the year. It seems that the applicants some-how or the other obtained the ^{an} uncorrected copy and have developed the case. We, therefore do not find any reason to quash the written test of LDCE for 25% vacancies for promotion to Assistant Engineer held on 6.3.1993.

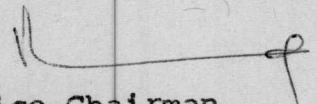
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11. In view of the above observations we are unable to grant relief prayed for ^{by} the applicants. The OA is devoid of merit and dismissed.

12. There will be no order as to costs.


Member-A


Vice-Chairman

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