

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH  
ALLAHABAD

Original Application No. 1779 of 1994

Allahabad this the 27th day of June, 2000

Hon'ble Mr.S.K.I. Naqvi, Member (J)  
Hon'ble Mr.M.P. Singh, Member (A)

1. R.B. Saxena, Son of Sri S.N. Saxena, Head Train Examiner, Northern Railway, Allahabad Division, Posted at Kanpur.
2. K.K. Gupta, Son of Sri Lakan Lal Gupta, Head Train Examiner, Northern Railway, Allahabad Division, Posted at Allahabad.
3. G.N. Pandey, Son of Sri S.P. Pandey, Head Train Examiner, Northern Railway, Allahabad Division, Posted at Chunki.
4. M.A. Khan, Son of Shri Jumman Khan, Head Train Examiner, Northern Railway, Allahabad Division Posted at Aligarh.
5. B.K. Rawat, Son of Shri P.S. Sharma, Head Train Examiner, Northern Railway, Allahabad Division, Posted at Tundla.
6. Ashraf Jahagir, Son of Sri Iftikharul Haq, Head Train Examiner, Northern Railway, Allahabad Division, Posted at Allahabad.
7. Ashok Kumar, Son of Shri Sheo Charan, Head Train Examiner, Northern Railway, Allahabad Division, Posted at Juhi, Kanpur.
8. A.P. Sinha, Son of Sri Kalka Prasad Sinha, Head Train Examiner, Northern Railway, Allahabad Division, posted at Allahabad.

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9. Chandra Bhan Singh, Son of Sri Ramadhar Singh, Head Train Examiner, Northern Railway, Allahabad Division, posted at Kanpur.

10. Ashok Kumar Bagga, Son of Sri K.L. Bagga, Head Train Examiner, Northern Railway, Allahabad Division, Posted at Khurja, Bulandshahr.

11. Satendra Kumar Chaturvedi, Son of Sri B.R. Chaturvedi, Head Train Examiner, Northern Railway, Allahabad Division, Posted at Etawah.

12. Shushil Kumar Paul, Son of Sri K.D. Paul, Head Train Examiner, Northern Railway, Allahabad Division, Posted at Chunki, Allahabad.

13. Daya Shanker Pandey, Son of Sri Ram Kripal Pandey, Head Train Examiner, Northern Railway, Allahabad Division, Posted at Allahabad.

14. Raj Mangal Rai, Son of Sri Doodh Nath Rai, Head Train Examiner, Northern Railway, Allahabad Division, Juhu, Kanpur.

15. Javed Mohammad Aslam, Son of Sri Mohammad Jalil, Head Train Examiner, Northern Railway, Allahabad Division, Posted at Allahabad.

16. T.P. Ganguli, Son of Sri S.P. Ganguli, Head Train Examiner, Northern Railway, Allahabad Division, posted at Allahabad

.....Applicants.

(Counsel for the Applicants Sri R.G. Padia. Adv.

Sri G.P. Tripathi, Adv.

Piyush Shukla Adv.

Sri Prakash Padia Adv.

Versus

1. Union of India.

through the Secretary, Ministry of Railways, New Delhi.

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2. Chairman, Railway Board, New Delhi.
3. General Manager, Northern Railway, New Delhi.
4. Divisional Railway Manager (Personnel)  
Northern Railway Allahabad.
5. Senior Divisional Mechanical Engineer, Northern Railway, Allahabad.

..... Respondents -

(Counsel for the Respondents: Sri G.P Agarwal. Adv)

O R D E R

By Hon'ble Mr. S.K.I. Naqvi, Member (J)

The applicants - R.B. Saxena and 15 others have filed this O.A. seeking relief to the effect that impugned order dated 15.11.94 be set aside through which fresh selection under Fresh Selection Procedure is proposed to fill in 16 posts of Carriage/Wagon Foreman and ~~so~~ also to direct the respondents to promote the applicant under re-structuring circular dated 27.1.1993.

2. As per the facts of the case, the applicant no.1 was initially appointed vide order dated 17.6.1959 in the respondents department and he is working as Head Train Examiner, likewise other applicants are also on the roll of the respondents and they claimed due to be promoted as Carriage/Wagon Foreman under the restructuring scheme vide circular dated 27.1.93. They have grievance that they are not being given the benefit of restructuring of the posts and being subjected to selection under Fresh Selection Procedure for which they submitted a representation

to the respondents but with no reply to the same and, therefore, they have come up before the Tribunal.

3. The respondents have contested the case and filed short counter-reply. According to which, the vacancies arising from 02.3.1993 are to be filled by normal selection procedure and, therefore, letter dated 15.11.1994 was issued for holding the selection to fill in the vacancies on or after 02.3.93 and in furtherance thereof, written test was held on 17.12.1994 and supplementary on 24.12.1994 and ~~viva-voce~~ was held on 13.3.1995 and its supplementary on 21.03.95. The panel was declared on 11.4.1995 and promotion orders were issued accordingly on 28.4.95. The applicants were apprised of the fact that the benefit of re-structuring could not be allowed to them against the vacancies existing at that time for direct recruit quota. It ~~had~~ been clarified that none of the applicant was eligible for promotion against the order of restructuring w.e.f. 01.3.1993. The counter-reply further goes to mention that the applicants no.2, 3, 4 and 5 have <sup>already</sup> ~~also~~ been selected as CFO/WFO in the grade of Rs.2000-3200 against restructuring and have also been promoted w.e.f. 16.3.95. The applicant no.1 has not been given the promotion because of pending S.F.-5 against him. The other applicants have also been promoted w.e.f. 28.4.95 after qualifying the selection. On these grounds, it has been

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pressed that the applicants are not entitled to reliefs claimed.

4. Heard, the learned counsel for the respondents and perused the record.

5. We find that the pleadings advanced on behalf of the respondents are not very clear. On page 3 of counter-affidavit, there is mention that none of the applicant was found eligible for promotion against the order of re-structuring w.e.f. 01.3.1993 and immediately thereafter there is version of the that promotion has been allowed to some applicants against restructuring w.e.f. 16.3.95. In case the applicants were not entitled to get benefit of re-structuring, how could they be promoted under the re-structuring from a subsequent date. ~~If~~ In case they were within the zone of consideration under the re-structuring, they ought to have given its benefit w.e.f. 01.3.1993 and onus lies on respondents to show as to how this restructuring could be extended to take effect from 16.3.1995. The respondents have mentioned some circular dated 06.3.1995 under which the benefit of restructuring could be extended to some of the applicant but no copy of this circular has been attached with the record.

6. For the above, we find it a fit matter to direct the respondents to reconsider the promotions of the applicants and decide the pending representations and clarify the position as per above observation.

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7. The respondents are also directed to decide the pending representations of the applicants as mentioned in Clause 'C' of relief clause of the O.A., within 3 months from the date of communication of this order by passing detailed reasoned and speaking order under intimation to the applicants. The O.A. is decided accordingly. No order as to costs.

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Member (A)

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Member (J)

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