

CENTRAL ADMINISTRATIVE TRIBUNAL,

ALLAHABAD BENCH, ALLAHABAD

(15)

ORIGINAL APPLICATION NO. 1244/94

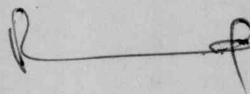
this the 23rd day of May, 2002

JUSTICE

HON'BLR MR. R.R.K. TRIVEDI, VC

HON'BLE MR. S.S. CHADDHA, AM

1. Haridarshan Singh s/o Harinam Singh r/o Defence Colony, Air Force, Stn. Nainital Rd. Bareilly.
2. V.C. Chako s/o Thomas Chako, r/o Qr. No. M/9B, Rly. Hospital, Colony, Izatnagar, Bareilly.
3. Raj Kishore Sainik s/o Munni Lal r/o Qr. No. LE/275, City Rly, Colony, Bareilly, City.
4. Murlidharan s/o Sukumaran r/o H.No.323, Marhi Nath Road, Pandit Wali Gali, Bareilly.
5. H. William s/o William Lal r/o 85 Civil Lines, Bareilly.
6. Guru Charan Singh s/o Santosh Singh r/o Kohli Bhawan, 52/136, Shivpuri, Izatnagar, Bareilly.
7. Bhag Singh s/o Mahendra Singh r/o T/142-B, Office Colony, Izatnagar, Bareilly.
8. Yogendra Sharma s/o Baboo Lal Sharma r/o Qr. No. L/61-A Rly Hospital Colony, Izatnagar, Bareilly.
- 9- Shiv Kumar Srivastava s/o Baboo Ram r/o Bajpai Bldg. Sugar Factory Lane, Subhashnagar, Bareilly.
10. Sharif Mina s/o Puttan Mian, r/o 265 Shahbad Diwan Khan Road, Bareilly.
11. Baljit Singh s/o Shivdev Singh r/o B/52, Rajendrra Nagar, Avas Vikas Colony, Bareilly.
12. Mihir Bhattacharya, s/o Narsingh r/o Qr. No. 461/A, New Model Colony, Izatnagar, Bareilly.
13. A.U. Khan, s/o Khalilullah, 273 Bajarria Puram Mal Bareilly.
14. R. Jacob s/o William Jacob r/o 15 Civil Lines, Issiyon Ki Puliya, Bareilly.



15. R.K. Rastogi, s/o Pyare Lal r/o 587, Mallokpur Sonaron Wali Gali, Bareilly.
16. Rais Ahmed s/o Abdul Wahid r/o Biharipur, Mewaran Mahgran Masjid, Bareilly.
17. Gopal Singh s/o Bachchi Singh Qr. No. 3/H New City Rly. Colony, Bareilly.
18. Ashok Singh s/o Ram Singh Parmar Qr. No. 50A, Rly Colony, Ghupula, Bareilly.
19. Ram Sanehi s/o Angal Lal r/o 527, Ahir Mohalla Sadar Bazar, Bareilly Cantt. Bareilly.
20. Ratan Singh s/o Hardayal r/o 417, Kasgraram Bareilly.
21. Chandrika Singh s/o Birbal Singh r/o 337/D, New Model Colony, Izatnagar, Bareilly.
22. Ashok Kumar s/o Shyam Lal r/o L/7 A, City Rly Colony, Bareilly City.
23. Ram Bharose Lal s/o Khetpal C/o Loco Foreman Office, Loco Shed, Kasganj.

...Applicants

By Advocate: Sri A.K. Singh

Versus

1. Union of India through the General Manager, N.E. Railway, Gorakhpur.
2. Divisional Rly Manager, N.E. Rly, Izatnagar, Bareilly.
3. Hamid Raza Khan s/o Hasan Raza Khan.
4. Hori Lal S/o T. Lal
5. Surendra Pratap Saxena s/o Baldev Sahay.
6. Hari Kishan s/o Jhamman Lal
7. Om Prakash s/o Shankar Lal
8. Raj Prakash Arya s/o Lalta Prasad
9. Satya Pal s/o Jassu
10. Mohd. Naim Khan s/o Mohd. Ibrahim.
11. Om Baboo s/o Munna Lal
12. Ram Avtar s/o ~~C.B. Singh~~ Tota Ram
13. Arjun Singh s/o C.B. Singh
14. Ram Prasad s/o Balak Ram
15. Ram Ji Mal s/o Sewa Ram
16. Surjan Giri s/o Bhole Gidi

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- 17 88 Ramesh Chandra Sharma S/O Ram Chandra
- 18 89 Ram Prasad S/O Ganga Ram
- 19 90 Ram Prasad Dubey S/O Shri Ram Suresh
- 20 91 S.W.S. Zaidi s/o not known
- 21 93 Tara Chand S/O Jhanjhan Lal
- 22 94 Anant Singh Thapa S/O Ram Singh
- 23 95 M.C. Karmakar s/o Shashi Bhushan Karmakar
- 24 97 Abid Husain s/o Pyare
- 25 100 Beni Ram S/O Kallu
- 26 101 Mohan Lal S/O Chet Ram
- 27 103 Gorakh Bhagat S/O Behari Lal
- 28 104 Hira Lal S/O Chunni Lal
- 29 105 Radha Kishan s/o Jhunni Lal
- 30 107 Mahesh Chandra S/O Ram Charan
- 31 109 Vishnu Sharan Saxena S/O Lakshmi Shankar
- 32 114 Rauf Husain s/o Mahboob Husain
- 33 117 Mushtaq Husain s/o Mumtaj Husain
- 34 118 Shafiq Ahmad s/o Fazal Ahmad
- 35 120 Alauddin s/o Musa Khan
- 36 123 Anis Beg s/o Hasan Beg
- 37 124 Kishan Lal s/o Ram Lal
- 38 128 Badri Nath s/o Shambhoo
- 39 130 Devi Dayal s/o Mitthu Lal
- 40 132 Ram Bharose Lal s/o Balak Ram
- 41 138 Pramod Kumar Massey s/o P Massey
- 42 139 Gopal Chandra De S/O M.C. De
- 43 142 Kali Charan S/O Sundar Lal
- 44 143 Jalim Ram s/o Ganesh Ram
- 45 149 Ram Bahadur S/O Babu Lal
- 46 150 Ramesh Chandra s/o Kali Charan
- 47 151 Mahendra Kumar Dubey S/O Bhagwan Das
- 48 152 Vijai Kumar S/O Dewa Ram
- 49 153 A.N. Mathur s/o K.N. Mathur
- 50 157 Rig Dev S/O Pura
- 51 161 Ashok Kumar s/o R.B. Lal
- 52 162 Rajendra Behari Lal s/o Ganeshi Lal
- 53 163 Mukhtyar Husain s/o Anwar Husain
- 54 164 Durga Charan son of Bandhu Lal
- 55 165 Anil Kumar Jauhari s/o D C. Jauhari

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- 56 166 Faijuddin S/O Fakhruddin
 57 168 Hari Babu I s/o Bhagwan Das
 58 170 Mazhar Khan s/o Akhtar Kahan
 59 173 Udai Singh s/o Mohan
 60 62 Rais Mian s/o Pyare

All residents c/o Loco Foreman, Loco Shed,
 N.E. Railway, Bareilly City.

- 61 43 Mazhar Beg s/o Virshad Beg
 62 47 Lajja Ram Yadav s/o Jagannath Singh
 63 48 Chandra Bhan Singh s/o Udai Veer Singh
 64 49 Moti Lal Saxena s/o Phulwari Lal
 65 50 Ram Kishan s/o Shankar Lal
 66 55 Jalil Ahmad S/O Jamil Ahmad
 67 56 Maksud Khan s/o Mahboob Khan
 68 58 Dinesh Chandra s/o Ram Baboo
 69 59 Yad Ram Vimal son of Baboo Ram
 70 60 Dilawar Khan son of Bahadur Khan
 71 61 Mohd Yamin Khan s/o Masin Khan
 72 65 Ram Sahai son of Lakshman Singh
 73 67 Jagdish Prasad s/o Kallu Ram
 74 72 Panna Lal son of Pokh Pal
 75 75 Chhadammi Lal son of Sukh Lal
 76 76 Ram Saran son of Biri Lal
 77 79 Satya Pal son of Mohan
 78 80 Kali Charan son of Nawal Kishor
 79 86 Buddha Prakash son of Madan Bihari Lal
 80 87 Ravindra Pal singh son of Niranjan Singh
 81 98 Abdul Majid Khan son of Abdul Rahim Khan
 82 102 Shabbir Husain son of Menhadi Hasan
 83 108 Sultan Ahmad Khan son of Mohd. Umar Khan
 84 110 Tilak Singh son of Laljit Singh
 85 111 Gendan Lal son of Daya Ram
 86 115 Hari Shankar son of Sunder Lal
 87 116 Keshari Nandan son of Satya Narain Prasad
 88 119 Kamal Singh son of Banshidhar
 89 127 Biri Singh son of Bharat Singh
 90 131 Suresh Chandra son of Tula Ram
 91 133 Suraj Pal Singh son of Bir Sahai
 92 134 Suresh Chandra son of Siya Ram

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- 93 136 Kesari Singh son of Naunihal Singh
- 94 137 Chandra Shekhar son of Chainu
- 95 141 Shivrath son of Hari Prasad

All Care of Loco Foreman, N.E. Railway, Kasganj.

- 96 51 Surya Narain son of Baijnath
- 97 73 Jamuna Prasad son of Lallu
- 98 121 Ram Yatan son of Shiv Chand
- 99 135 Lal Ji son of Ram Wali
- 100 144 Nihal Singh son of Raghunath
- 101 145 Amichand son of Bhaggu Ram
- 102 154 Ram Baresh Rao son of Shivpujan Rao
- 103 155 Radha Mohan Sharma son of Shiv Charan Sharma

All Care of Loco Foreman, N.E. Railway,
Loco Shed, Kashipur.

- 104 63 Lal Singh Yadav son of not known
- 105 74 Bitthan Lal son of Mihi Lal
- 106 77 Tula Ram son of Natthu Lal
- 107 140 Bhagat Lal son of Narpal Lal
- 108 147 Jit Singh son of Jaikaran Singh

All care of Loco Foreman, N.E. Railway
Loco Shed, Fatehgarh.

- 109 56 Madan Lal son of Narsingh Pal
- 110 57 Ramesh Singh son of Jaisiya
- 111 66 Prem Prakash Sharma son of Mahand Sharma
- 112 78 Ram Nath son of Mahendra Pal
- 113 81 Kashi Ram son of Tula Ram
- 114 82 Jagdish son of Aharfi Lal
- 115 92 Pothi Ram son of Roop Ram
- 116 96 Brij Lal son of Sardar Sharma
- 117 126 Mohd. Sabir Khan son of Mohd. Hasim Khan
- 118 129 Ashok Kumar son of Chhote Lal
- 119 146 Sohan Lal son of Yargai Lal
- 120 148 Ramadin son of Pritam Singh
- 121 156 Uma Shankar Dube son of Ram Chandra Dube
- 122 158 Mohd. Mujmil Khan son of Allatur Khan

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123. Parmeshwari Prasad s/o Magara.
124. Jahid Khan s/o Abijad Khan
All c/o Loco Foreman, Loco Shed, N.E. Railway
Pilibhit.
125. Mohd. Salim s/o Bandu Mian.
126. Prem Shanker Jauhari s/o Jhunni Lal
127. Madan Lal Sharma s/o Banke Lal
128. Keshav Datt s/o Trilochan
129. Vijai Kumar Agarwal s/o ~~Shyam Sundar~~ Shyam Sundar
130. Ashok Kumar Lal s/o Mohan Lal
131. Ayodhya Pal s/o Barraaj Kishor
All c/o Loco Foreman, Loco Shed, N.E. Rly.
Kathgodam.
132. Vinod Kumar Tewari s/o Krishna Gopal
133. Abid Hussain s/o Sabir Hussain.
134. Kamrul Jaman Khan s/o Fakhruddin Khan
135. Rama Kant Sharma s/o Bhuvneshwar Sharma.
All c/o Loco Foreman, N.E. Railway, Loco Shed
Bareilly, City.

...Respondents

By Advocate: Sri K.S. Saxena, Lalji Singh
J.N. Singh. and Sri S.K. Pandey B/h for
Sri S.K. Om.

ORDER (ORAL)

MR. R.R.K. TRIVEDI, VC

We have heard Sri A.K. Singh L/c for applicants and Sri K.S. Saxena, Sri Lalji Singh, Sri J.N. Singh and Sri S.K. Pandey B/h for Sri S.K. Om on behalf of respondents.

2. By this O.A. ^{under} section 19 of the AT Act, 1985, applicants have prayed for quashing of the seniority list dated 31st December, 1993 (Annexure-I) in which the applicants have been shown junior to the unselected respondents No. 3 to 135 as Fireman, Diesel Assistant/ Electrical Assistant Grade 950-1500. A further direction to place the applicants above all the unselected ^{or} Fireman-I including the

applicants based upon the length of service in the grade as duly selected I Fireman, with all consequential benefits.

3. The facts ^{given} rise to this dispute are that, Railways, in respect of Fireman, initially had three grades which were known as Fireman Grade A, Fireman Grade B and Fireman Grade C. After the 4th Pay Commission which came into the effect ^{uniformly} ~~W.O.F.~~

1.1.86, on the recommendations of the 4th Pay Commission, cadres of Fireman Grade 'A' and Fireman Grade 'B' were merged and were redesignated as Fireman Grade I. The cadre of Fireman Grade C was redesignated as Fireman Grade II. The applicants before us belong to cadre of Fireman Grade 'C' who after 1.1.86 ^{were} ~~was~~ redesignated as Fireman Grade II. Though L/c for the applicant has submitted that some of the applicants were Fireman Grade B on 1.1.86 but we don't find any material on record in this regard because after 1.1.86, there was no question any body remained ^{as} ~~as~~ Fireman Grade B because they were merged as Fireman Grade I.

4. The grievance of the applicants is that persons who were ~~not~~ merged in Grade-I Fireman from Grade B had not passed any test for being promoted as Fireman Grade A, therefore ~~XXXXX~~ ^{and} they cannot be treated as Fireman Grade I and they cannot be senior to the applicants who were ultimately selected and promoted as Fireman Grade I in 1988. Thus the question for determination is whether after the recommendation of the 4th Pay Commission and merger of two cadres Fireman Grade 'A' and Fireman Grade 'B' ^{and} ~~as~~ redesignated ^{it} as Fireman Grade I, ~~XXXXX~~ ^{was} necessary for Fireman Grade B to appear in any test for getting the status of Fireman Grade I, L/c for applicants has heavily relied on Railway Board's Circular dated 5.2.1987 (Annexure -3). Counsel for the applicants

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has referred to para 3 (v) which reads as under:-

"In respect of the merged grades as also the grades where classification is hereby changed, any promotion s/filling in of vacancies after the ~~XXXX~~ crucial dates i.e. (a) after 25.9.86 in the case of merged grades; and (b) after the date of issue of this letter in respect of other grades, will be treated as adhoc and will not confer any right upon incumbents promoted/posted as such to hold or continue to hold the said post and regular promotions will be only on the basis of the revised classification, as indicated above. Thus the crucial dates on regular basis in accordance with the classification then in force will stand protected."

5. From perusal of the aforesaid para (v) of the Railway Board's circular, it is clear that in respect of merged grades as also the grades ^{of which} ~~where~~ classification ^{was} ~~is~~ thereby changed, any promotion/filling in of vacancies after the crucial dates i.e. (a) after 25.9.86 in the case of merged grades; and (b) after the date of issue of this ^{is} ~~the~~ letter in respect of other grades, will be treated as adhoc and will not confer any right to the incumbents.

Above
6. ~~XXXX~~ paragraph clearly deals with those promotion/filling in of vacancies after crucial dates. In case of merger of two cadres, discussed above, there was neither question of promotion ^{or} ~~of~~ filling up of any vacancy, therefore para (v) could not be legally applicable on those who were serving in Fireman Grade B between 1.1.86 to 25.9.86 ^{as they} ~~were~~ entitled to be redesignated as Fireman Grade I in block. The applicant, cannot claim any seniority over them.

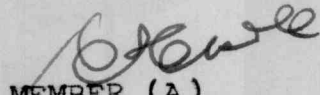
7. Counsel for the applicant has also referred the judgement of this Tribunal dated 13th October, 1995 passed in O.A. No. 183/92 (Annexure-4). However, judgement does not appear to the relevant ^{for} ~~by~~ the question raised on behalf of the applicants, as it was dispute of inter-se-seniority between Fireman Grade A and Fireman Grade B before 1.1.86.

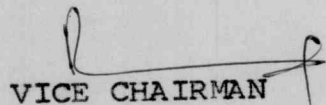
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8. For the reasons stated above, we do not find any merit in the O.A. The original application is accordingly dismissed. No order as to costs.


MEMBER (A)


VICE CHAIRMAN

ALLAHABAD: DATED: 23.5.2002

HLS/-