

CENTRAL ADMINISTRATIVE TRIBUNAL,

ALLAHABAD BENCH, ALLAHABAD

(15)

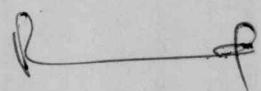
ORIGINAL APPLICATION NO. 1244/94

this the 23rd day of May, 2002

JUSTICE

HON'BLR MR. K.R.R.K. TRIVEDI, VC
HON'BLE MR. S.S. CHADDA, 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, Shippuri, 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 Bajaria Puram Mal Bareilly.
14. R. Jacob s/o William Jacob r/o 15 Civil Lines, Isaiyon Ki Puliya, Bareilly.



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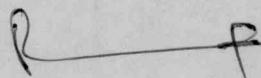
15. R.K. Rastogi, s/o Pyare Lal r/o 587, Mallokpur Sonaron Wali Gali, Bareilly.
16. Rais Ahmed s/o Abdul Wahid r/o Biharipur, Mewaran Mahgran Masjid, Bareilly.
17. Gopal Singh s/o Bachchi Singh Qr. No. 3/H New City Rly. Colony, Bareilly.
18. Ashok Singh s/o Ram Singh Parmar Qr. No. 50-A, Rly Colony, 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 Brakash 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



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 Sharvan 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 Puran
 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

56 166 Faijuddin S/O Fakhruddin
 57 168 Hari Babu I s/o Bhagwan Das
 58 170 Mazhar Khan s/o Akhtar Khan
 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 H_{as}san
 83 108 Sultan Ahmad Khan son of Mohd. Umar Khan
 84 110 Tilak Singh son of Laljit Singh
 85 111 Genden Lal son of Daya Ram
 86 115 Hari Shankar son of Sunder Lal
 87 116 Keshari Nandam 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 Shivnath 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 Naresh 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 Narpat 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

123. Parmeshwari Prasad s/o Magara.

124. Jahid Khan s/o Abijad Khan
All c/o Loco Foreman, Loco Shed, N.E. Railwayk
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

130. Ashok Kumar Lal s/o Mohan Lal

131. Ayodhya Pal s/o Barraj 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 OLA. 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 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 giving 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 ^{vacancy} ~~vacancy~~ 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 ^{were} 1.1.86 ~~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 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 ~~they~~ ^{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' ~~as~~ ^{and} redesignated it as Fireman Grade I, ~~was~~ 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

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 ^{in which} ~~where~~ classification ^{was} 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 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 ^{nor} 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 applicants cannot claim any seniority over them.

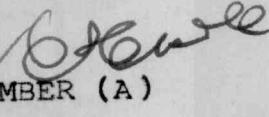
7. Counsel for the applicant has also referred the judgement of this Tribunal dated 13th October, 1995 passed in O.A. No. 183/92 (Annexure-4). However, judgement does not appear to be relevant ^{by} the question raised on behalf of the applicants, as it was dispute of inter-se seniority between Fireman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

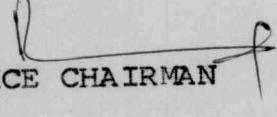
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8. For the reasons stated above, we do not find any merit in the O.A. The original application is accordingly dismissed. No order as to costs.


MEMBER (A)


VICE CHAIRMAN

ALLAHABAD: DATED: 23.5.2002

HLS/-