

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH : ALLAHABAD

ORIGINAL APPLICATION No. 611/1995

THURSDAY, THIS IS THE 16TH DAY OF MAY, 2002

HON'BLE MR. S. DAYAL .. MEMBER (A)

HON'BLE MR. RAFIQ UDDIN .. MEMBER (J)

1. Parmatma Singh
2. Deepak Kumar Srivastava
3. Afaq Ahmed
4. Chandra Pratap Singh
5. Amar Nath Yadav
6. Anoop Kumar Sinha
7. Atiqur Rahman
8. Ram Pravesh Maurya
9. Sattan Prasad
10. Ajai Kumar Singh
11. Baij Nath Prasad Yadav
12. Saligram Pandey
13. Rajesh Kumar Asthana
14. Govind Nath
15. Maheshwar Dubey
16. Manoj Kumar Srivastava
17. Ram Raksha
18. Ramji Tewari
19. Gopal
20. Ranjana Gupta (Smt.)
21. Arun Kumar .. Applicants

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22. Lallan Singh

23. Ram Narain Singh

24. Budhi Ram,
All Head Clerks,
Working under Chief Commercial Manager,
North Eastern Railways,
Gorakhpur. ...

Applicants

(By Advocate Shri S.K. Om)

Versus

1. Union of India, through
General Manager,
North Eastern Railways,
Gorakhpur.

2. Chief Commercial Manager,
North Eastern Railways,
Gorakhpur.

3. Chief Personnel Officer,
North Eastern Railways,
Gorakhpur. ...

Respondents

(By Advocate Shri J.N. Singh - Absent)

O R D E R - (ORAL)

Hon'ble Mr. S. Dayal, Member (A):

This application has been filed for setting aside the order dated 1.2.1995 and for a direction to the respondents to rectify the administrative mistake in calculation of the number of vacancies according to the number of vacancies prevailing as on 27.10.1994. Further, a prayer has been made for empanelment of 61 candidates instead of 36 candidates and for promotion of the applicants as O.S. Gr.II within that panel as and when vacancies arose.

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2. The case as mentioned by the applicants is that the vacancies for the post of O.S. Gr. II in the scale of Rs.1,600 - 2660/- were not properly calculated by the respondents in so much as on 21.1.1994, the existing vacancies were 41 and anticipated vacancies were 17 and the vacancies for unforeseen contingencies at 20% of 17 was 3. Thus, the total vacancies as claimed are stated to be 61. It is claimed by the applicants that if all the vacancies were filled up by selection made on the basis of notification dated 27.10.1994, the applicants would also have been empanelled and would have been appointed on vacancies becoming available.

3. We have heard the arguments of Shri S.K. Om, learned counsel for the applicants.

4. The learned counsel for the applicants had been directed by the Bench on 1.11.2001 to file supplementary affidavit giving up-to-date position about the applicants as a result of subsequent selection. It has been mentioned that in the subsequent selection 18 of the applicants were selected while six of the applicants viz., those at Sl. No.8,17,18,22,23 and 24 could not qualify the written test, because of which, they were working as Head Clerks on the date of filing of supplementary affidavit on 16.1.02.

5. The learned counsel for the applicant has based his claim upon the judgment of Central Administrative Tribunal, Ernakulam Bench, in V.R. GOPINATHAN AND OTHERS Vs. UNION OF INDIA AND OTHERS (1989) 11 ATC 178. In the said decision, it has been held that after a selection was



made, another notice was issued for further selection and the notice for filling up of posts which had taken into account the total short-fall during the previous year. It was held that the vacancies for which the applicants in that case had appeared could not be carried forward for fresh selection. It has been stated in the supplementary affidavit that the subsequent selection was made in the case before us for 32 posts. Thus, there is a mixture of 2 types of vacancies before us for selection.

6. The learned counsel for the applicants has relied upon the judgment of Division Bench of this Tribunal in Calcutta in P.K. BISWAS Versus UNION OF INDIA AND OTHERS and RAMESH CHANDRA CHATTERJEE Versus UNION OF INDIA AND OTHERS (1990) 14 ATC 70, in which it was held that the number of vacancies to be kept on the panel should include the number of vacancies to arise during the currency of the panel and if this is not done, the panel should be enlarged taking into consideration the anticipated vacancies which may arise within 2 years from the date of approval.

7. We have considered the provision of 215 (F) of REM Vol I regarding selection post in which it has been provided that the assessment of vacancies including existing vacancies and those anticipated during the course of the next one year plus 20% of anticipated vacancies on account of unforeseen contingencies. Such vacancies should include vacancies caused due to retirement or superannuation as also those likely to be caused as a result of acceptance of notice for voluntary Retirement or due to staff approved to go on

deputation to other units, due to number of staff already empanelled for ex-cadre posting and also due to creation of posts already sanctioned by the competent authority and vacancies arising out of the cases of staff likely to go on transfer to other Railway Divisions, etc.

8. We do not find from the pleadings as to the basis on which the 17 anticipated vacancies have been calculated. However, it has not been denied that there were 41 vacancies and only 36 vacancies were filled up. Therefore, the minimum enlargement of the panel could be to the extent of 5 persons.

9. The applicants have claimed that they had succeeded in the written and had appeared in viva-voce and were not empanelled only because the panel was drawn for filling up 36 vacancies. This has also not been denied by the respondents.

10. There is a tacit admission by the respondents in their letter dated 1.2.1995 that all the vacancies were not filled up by selection held by notices dated 21.1.1994 and 27.10.1994. Pursuant to letter dated 1.2.1995, selection was held for as many as 32 vacancies. It is clear that the candidates who had appeared against notification dated 27.10.1994 and had secured pass marks in both written as well as viva-voce would have been empanelled if all the vacancies had been taken into account. The respondents are directed to enhance the panel by including such candidates and granting them promotion from the dates of promotion of their juniors. This direction shall be completed within three months from the date of receipt of a copy of this order. Notification dated 1.2.1995 shall stand amended to this extent. No order as to costs.

psp.

MEMBER (J)

MEMBER (A)