

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD.

Allahabad, this the 17th day of May 2002.

QUORUM : HON. MR. S. DAYAL, A.M.

HON. MR. RAFIQUDDIN, J.M.

O. A. No. 642 of 1995.

1. Awadhesh Kumar Srivastava, Draftsman Under CSTE (Con) N.E. Railway, Gorakhpur.
2. H.N. Srivastava, Draftsman under CSTE (Con), N.E. Railway, Gorakhpur.
3. Ashwani Kumar Vema, Draftsman, CAO (Con), N.E. Railway, Gorakhpur.
4. Azona Raja Bela, Draftsman, under Dy. CAO (Bridge), N.E. Railway, Gorakhpur.
5. A.K. Srivastava, Sr. Clerk, under Dy. CPO (Con), N.E. Railway, Gorakhpur.
6. A.K. Mishra, Draftsman, under CSTE/OL, N.E. Railway, Gorakhpur.
7. Sushil Kumar Singh, Sr. Clerk, under Dy. CPO (Con), N.E. Railway, Gorakhpur.
8. Dinesh Chandra Srivastava, Sr. Clerk under Dy. CE/C, Gorakhpur.
9. Nagendra Nath Pandey, Sr. Clerk under CAO/CON/Gorakhpur.

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..... Applicants.

Counsel for applicants : Sri A. Srivastava.

Versus

1. The Union of India through General Manager, N.E. Railway, Gorakhpur.
2. G.M.(P), Chief Personnel Officer, N.E. Railway, Gorakhpur.
3. Chief Administrative Officer (Cons), N.E. Railway, Gorakhpur.
4. Amendra Kumar, Tracer C.P. Con. Gorakhpur.
5. Sri Subhash Singh, Tracer, Dy. C.S. (Con), Varanasi.
6. Parmeshwar Lal, working as clerk under CAO (Con), Gorakhpur.
7. Krishan Gopal Singh, working as Clerk under CAO (Cons), Gorakhpur.
8. Dhamendra Nath Pandey, working as Clerk under Dy. CMO (Con), Gorakhpur.

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9. Rajendra Prasad Gupta, working as Draftsman under CSTE (Con),
Gorakhpur.
 10. Ram Tehal Yadav, working as Draftsman under Sr. CAO (Con),
Gorakhpur.
 11. Ashok Kumar, working as Draftsman under CAO (Con), Gorakhpur.
 12. Kashi Nath Prasad, working as Draftsman (Con), Survey,
Gorakhpur.....
- Respondents.

Counsel for respondents : Sri A.K. Gaur.

O R D E R (ORAL)

BY MR. S. DAYAL, A.M.

This O.A. has been filed against order dated 27.3.95 issued by General Manager, Personnel, North Eastern Railway, Gorakhpur. A direction is sought to the respondents to treat the applicant as regularised in their categories in Class-III as per letter dated 19.1.1985 of Railway Board and their names may be interpolated in the list vide letter No.E/227/7/BG (Class III/Pl-II/1 dated 4.9.85 issued by Chief Engineer Construction, North Eastern Railway, Gorakhpur. Applicants also seek promotion from the date their juniors have been promoted.

2. The applicants have claimed that they were called to appear before the Screening Committee from 22.7.85 to 2-5.7.85. Before finalisation of proceeding of Screening Committee, it was found that the applicants were over-age and, therefore, cases were referred to Railway Board on 2-5.8.85 by General Manager for relaxation of ^{qualifications regarding} Age/Education. It is stated that Railway Board took two years to give a reply and granted exemption only by their letter on Oct.13, 1987. The above respondents regularised the applicant from 21.9.89 instead of interpolating their names in the list dated 4.9.85.

3. We have heard the arguments of Sri A Srivastava for applicant and Sri M.K. Shama, B.H. of Sri A.K. Gaur for respdts.

4. Counsel for applicant has claimed that since the screening of the applicants was done in 1985 and they were found

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suitable, therefore, in terms of order dated 13.10.87 of the Railway Board, they should have been appointed w.e.f. 4.9.85 when the other casual Class III workers in B.G. Construction organisation were regularised on account of the fact that they did not require any relaxation in age. Counsel for the applicants has also stated that relaxation of age could be granted by the General Manager instead of which the names had been forwarded to the Railway Board for age relaxation.

5. We have carefully considered the submissions of Counsel for the applicants. First contention of the applicants that by letter dated Oct.13, 1987, the respondents were bound to give appointment from the date on which they were considered for regular absorption and found suitable, is not tenable because that letter reads as follows :-

"(c) Regular appointment will have only prospective effect (i.e. not before the date on which they are considered for regular absorption and found suitable)."


It is clear from a reading of clause (c) that only prospective effect was to be given to regular appointment and such prospective effect would have to be not before the date on which the applicant were considered for regular absorption and found suitable. The applicants since they were not eligible in 1985 for screening on account of their qualifications could, therefore, not have been given appointment before such relaxation was given and the regularisation was given only by Railway Board letter dated Oct.13, 1987.

6. It appears that regularisation of the Respondent Nos.4 to 12 was done on account of Railway Board instruction dated 19.1.85 because the respondents were fulfilling the conditions laid down. The first of these was that they should be having the prescribed minimum educational qualifications. The second was that the prescribed age limit after allowing aggregate service already rendered by them should also be fulfilled by the persons to be regularised. The third was the assessment of their suitability for absorption by a Committee of three officers which

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included Chairman/Member Secretary of Railway Board/Service Commission, Gorakhpur and the last was that regularisation was to be done with effect from prospective date. On the other hand, the order of regularisation of some of the casual class-III workers of the category to which the applicants belonged in B.G. Construction organisation is enclosed by the respondents as Annexure-5 to their counter reply. It is clear from a perusal of this order that the screening was held on 19.12.88 and the screened persons were appointed by this order dated 27.1.89. The names of some of the applicants are included in this order. The respondents have placed before us a copy of order in O.A. 643/95 decided on 27.2.01 between O.P. Shukla and others Vs. Union of India and others in a case having similar controversy and a different bench had arrived at the same view as we have of this controversy. Thus, the claim of Counsel for the applicants ^{that the applicants} had been found suitable, cannot be accepted. The appointment with effect from Jan.89 in case of the applicants is found to be in order and they are not entitled to interpolate their names in the list prepared in 1985.

No order as to costs.


J.M.


A.M.

Asthana/
27.5.02