

Reserved

CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH

ALLAHABAD.

Allahabad this the 11th day of August, 2000.

Original Application no. 1646 of 1999.

Hon'ble Mr. S.K.I. Naqvi, JM

Hon'ble Mr. M.P. Singh, AM

1. Suresh Chandra Tewari,
S/o Sri Siddha Swaroop Tewari,
R/o Village Kukradeo, P.O. Mandana,
Distt. Kanpur Nagar,
working as Assistant Guard, Kasganj,
N.E. Rly, Izatnagar, Bareilly.
2. Shyam Babu Mishra, S/o D.S. Mishra,
R/o Village Poora Near Railway Station,
Uttari Poora, Post Office Poora, Distt.
Kanpur Nagar, working as Asstt. Guard,
Kashganj, NE Rly., Izatnagar, Bareilly.
3. Jaswant Singh, S/o.... R/o....
working as Assistant Guard, Kasganj,
N.E. Rly, Izatnagar, Distt. Bareilly
4. Suresh Chandra Shukla, S/o Sone Lal,
R/o village Sheorajpur, near Bhuteshwar
Temple, P.O. Sheorajpur, Distt. Kanpur Nagar,
working as Assistant Guard, Kasganj,
N.E. Rly., Izatnagar, Bareilly
5. Ram Prakash, S/o Sri H. Singh,
R/o Maninath near Santoshi Mata Temple,
Distt. Bareilly, Working as Assistant
Guard, Bareilly City, NE Rly.,
Izatnagar, Bareilly
6. Pratham Singh, S/o Sri Mool Chandra,
R/o Nagla Hari Saunkh Kheda, Mathura,
working as Asstt. Guard, Kasganj,
NE Rly., Izatnagar, Bareilly.
7. Kamlapati, S/o Sri Durvijai,
R/o Old Shivali Road, Kalyanpur,
Distt. Kanpur Nagar,
working as Asstt. Guard, Kasganj,
Izatnagar, Bareilly.
8. Shankar Das, S/o Muneshwar Das,
R/o 64-D, Chaupla Railway Colony, working
as Asstt. Guard, Bareilly City, N.E. Rly.,
Izatnagar, Bareilly.

27

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9. B.P. Chandra Nautiyal, S/o Sri Jagat Ram,
R/o Railway Colony, Kasganj, Working as
Asstt. Guard, Kasganj, N.E. Rly., Izatnagar,
Bareilly.

... Applicants.

C/As Sri T.S. Pandey
Sri S.K. Srivastava

Versus

1. General Manager, NE. Rly, Gorakhpur.
2. Divisional Railway Manager, NE Rly., Izatnagar,
Bareilly.
3. Senior Divisional Operating Manager,
N.E. Rly., Izatnagar, Division Bareilly.
4. Senior Divisional Personnel Officer,
N.E. Rly., Izatnagar, Division,
Bareilly.

... Respondents.

C/Rs. Sri A.K. Gaur

O R D E R

Hon'ble Mr. M.P. Singh, AM.

The applicants ~~are~~ 9 in number, have
filed this OA under section 19 of the Administrative
Tribunals Act, 1985, against their reversion order
dated 29.11.99.



2. The case of the applicants as stated by them is that there are 14 sanctioned posts of Assistant Guard. Applicants no. 1 to 9 were promoted as Assistant Guard and upgraded Asstt. Guard on different dates. Applicants were reverted vide order dated 29.11.99 but they are still discharging their duties as Asstt. Guard. As per Railway Board Circular dated 21.4.89, applicants were declared surplus and were appointed against supernumerary posts vide order dated 20.03.97. By doing so the applicants have been deprived of their 30% running allowance. In a similar case certain Asstt. Guards who were working in Moradabad Division were declared surplus. They have been redeployed as Asstt. Guard, goods train which are equal posts to these of Asstt. Guard. According to them order dated 29.11.99 has been passed by the respondents without affording the opportunity of being heard to the applicant which is in violation of the principle of natural justice. Aggrieved by this the applicants have filed this OA, seeking the following reliefs :-

- i. issue any writ, order or direction in the nature of certiorary quashing the reversion order dated 29.11.99 (annexure 1) with costs with further order and direction of command to re-deploy the applicants on ^{other} ~~any~~ similar posts likewise the post of Guard, Goods train without any financial loss to the applicants.
- ii. costs of the petition/ original application be awarded to the applicants/petitioners against the respondents.

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iii. issue any other writ, order or direction which this Hon'ble Tribunal deems fit and proper in the circumstances of the case, but may have not been pleaded by the applicants and is found just and appropriate to this Hon'ble Tribunal be also awarded to the applicants against the respondents.

3. Respondents have contested their case and have stated that order dated 29.11.99 is not a reversion order. It is in fact an absorption order of all the staff who were identified and declared surplus. The applicants were initially appointed in Class IV category and in due course, they were promoted in different categories and lastly promoted to the post of Asstt. Guard. The post of Asstt. Guard is not filled up by selection, but it is filled up by seniority cum suitability. On perusal of alleged order of promotion dated 21.1.93, it is clear that the said promotion is wholly an interim promotion which is subject to modification after final decision of the Supreme Court. According to them as and when any post is declared surplus, the incumbent working against such post are normally absorbed in equivalent other suitable categories and in grade. In view of the foregoing, OA is wholly misconceived and deserves to be dismissed.

4. Heard learned counsel for the rival contesting parties and perused the record.

2

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5. As per letter dated 21.4.89, issued by the Railway Board regarding absorption/utilisation of surplus staff. The persons who cannot be immediately absorbed against other duly sanctioned posts should be allowed to continue against the "Special Supernumerary" posts in the same grade in which the incumbents were working and they will continue to have their lien in their old cadre posts so as to keep their promotional prospect in tact. If only a small number of staff are being rendered surplus and they have to be transferred to various units of other departments against vacancies of duly sanctioned, they can be suitably adjusted in those units with their full seniority and merging their seniority in the respective units.

6. In this case there are only ^{nine} Asstt. Guards who are declared surplus. They have been redeployed as Cabin man which is a different category of posts. Their absorption in the grade of Cabinman would deprive them to have continuity of their lien in the old cadre posts and would not keep their promotional prospect, in tact. It will adversely effect their future promotion to the higher posts. In view of the instruction contained in Railway Board letter dated 21.4.89, it would be just and fair that the names of the applicants are circulated for their appointments against the vacancies of Asstt. Guards

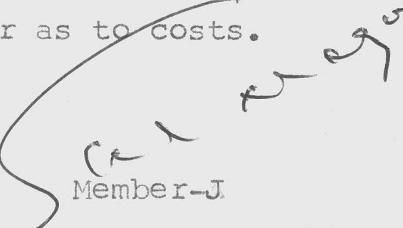
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in other divisions. Direction are, therefore, required to be given to the respondents to consider the appointment of the applicants on the post of Asstt. Guard in other divisions.

7. In the light of above discussion the respondents are directed to consider the redeployed ^{ment} of ~~the~~ applicants as Asstt. Guards in other Divisions/ Railways within a period of 4 months from the date of receipt of a copy of this order.

8. There shall be no order as to costs.


Member-A


Member-J

/pc/

18-7-2001 Hon. Mr. Justice R.R.K. Praveedi, i/c
Hon. Mr. S. Dayal, A.M.

MA 1569/01 is for execution of the order dated 11-8-2000 passed in OA 1646/99. A Counter affidavit has been filed annexing therewith the copy of the order dated 25-5-2001 by which the applicants have been posted as Assistant Guards at different places. It is claimed that the order has already been implemented.

In the circumstances, ~~there is~~ nothing remains ^{thereof} to be decided in this application.

Sri P.S. Paneley learned Counsel for the applicant, however, expressed apprehension that though order has been produced but there is no mention that applicants have also joined. In C.A. filed it has been stated that posting orders have been issued in favour of the applicants. In the circumstances, we do not have any doubt that the order of this Tribunal ~~may not be~~ has been implemented. However, in case applicants have not been allowed to join the post inspite of the posting order it shall be open to the applicant to approach this Tribunal. With this liberty MA 1569/01 is dismissed.

hj

A.M.

V.C.