

RESERVED

**CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD.**

ORIGINAL APPLICATION NO. 347 OF 1999

ALLAHABAD THIS THE 30TH DAY OF APRIL 2008.

Hon'ble Mr. Justice Khem Karan, Vice Chairman.

Hon'ble Mr. N.D. Dayal, Member (A)

1. Kameshwar Singh aged about 42 years son of Shri Jai Govind Singh, Resident of Quarter NO. 601-H, Officers Colony Northern Railway, Tundla presently posted as Peon cum Porter, under C.H.C. Northern Railway, Tundla.
2. Nand Kishore a/a 48 years, son of Shri Baba Ram, Coach Attendant, under Chief Ticket Inspector, Northern Railway, Allahabad.

.....Applicants

(By Advocate: Shri Amit Shukla/Shri S.K. Mishra)

Versus.

1. Union of India through the Secretary, Ministry of Railways, New Delhi.
2. The General Manager, Northern Railway, Baroda House, New Delhi.
3. The Divisional Railway Manager, Northern Railway, Allahabad.

.....Respondents

(By Advocate: Shri P. Mathur)

ORDER

By Justice Khem Karan, Vice Chairman.

These two applicants have prayed for commanding the respondents to promote them to the post of Ticket Collector, in the pay scale of Rs.3050-4590 w.e.f the date junior to them in the merit list, were promoted or from the date they passed P/6 course from the Zonal Training Centre, Chandausi, with all consequential benefits. They have also prayed for quashing the order dated 12.8.1999 and also to restrain the respondents from initiating any proceedings for cancellation of the panel in question.

2. It is an admitted position that these two were initially inducted as Group 'D' employee in Northern Railway. They were declared selected for promotion to the post of Ticket Collector in the pay scale of Rs.950-1500(revised scale of Rs. 3050-4590) under 33

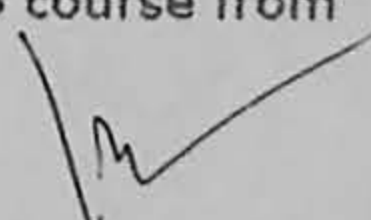


1/3 quota and were placed at Sl. No. 5 and 23 respectively in the panel dated 20.1.1995 (Annexure A-2). There is further no dispute that they were also sent for P/6 training at Zonal Training Centre, Chandausi as per Rules. They could pass P/6 course in third attempt, as is evident from Annexure A-3. There appears no dispute between the parties that these two were also given practical line training (Annexure A-4, A-5 and A-6). They say that instead of giving posting as Ticket Collector, the respondents are trying to cancel their names from the panel of selected candidates for the post of Ticket Collector, on the ground that they could not qualify P/6 course in 1st two attempts. Their contention is that the respondents have entertained an erroneous view that candidates of the panel were to qualify or pass P/6 course in two attempts and not in three attempts.

3. The respondents have resisted the claim by saying that in view of provisions contained and printed in Circular No.10914, candidates of the panel for the post of Ticket Collector, have to pass P/6 course from Zonal Training Centre, Chandausi in two attempts and if they fail to do so, they have no right to get promotion and their names are to be scored out from the panel. They say in para-9 that it was due to certain inadvertence that the two applicants were sent for training for third time and were given chance to pass P/6 course in third attempt and so the same will not enure to their benefits so as to get posting as Ticket Collector on the basis of their panel position. They say that position has been clearly explained in the impugned order dated 12.1.1999 (Annexure A-1).

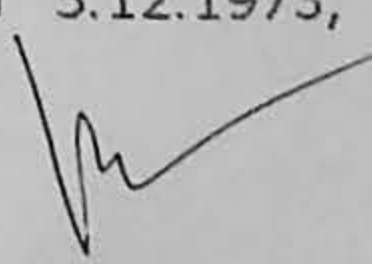
4. We have heard Shri S.K. Mishra appearing for the applicant and Shri A.N Ambasta holding brief of Shri P. Mathur, for the respondents and have perused the entire material on record.

5. The point to be decided is as to whether the two applicants finding place in the panel dated 20.1.1995 (Annexure A-2) for promotion from Group 'D' to Group 'C', had to pass P/6 course from



Zonal Training Centre, Chandausi in two attempts and on failure to do so, were to lose their right to get promoted to the post of Ticket Collector. Incidental question to be answered will be, as to whether the respondents can be permitted to turn around,, after they themselves allowed the applicants to pass P/6 course in 3rd attempt.

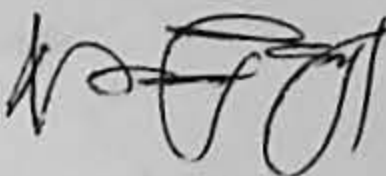
6. There is no dispute that vide its Circular No.6062 dated 05.12.1973, the Railway Board provided that in a post, for which the promotional course has been prescribed as a pre-requisite condition for promotion, the staff may be allowed to avail 3 chances to pass the promotional course at the cost of the Administration and if the employee fails to pass in three chances, he may be allowed to avail of more chances at his own costs. The Circulars No. 10914 dated 13.9.1994, appears to have been issued by the General Manager, in clarification of Circular dated 5.12.1973. After referring to Railway Board's letter dated 5.12.1973, circulated under PS NO.6062, it goes on to deal with the seniority of persons from Group 'D' to Group 'C'. It is in that context that it provides only two chances will be given to clear promotional course and if the candidate does not qualify even by availing second chance, his name will be deleted from the panel and thereafter he will apply fresh for selection. It says that these instructions will apply to those employee, who are promoted from one grade to another by virtue of seniority. In other words, these instructions contained under PS-10914 will not be applicable in a case where the promotion is not only on the basis of seniority only. It is an admitted position that applicants were subjected to suitability test and on their success in the test, were placed in the panel. It appears to us that their selection for promotion to the post of Ticket Collector was not purely on the basis of their seniority. So in our view, these instructions contained under PS-10914 dated 13.9.1994 have wrongly been pressed into service by the respondents. We do not think these will supersede Board's Circular dated 5.12.1973, referred to above.



7. In any case, Railway Administration allowed the applicants to have a ^{3rd} ~~three~~ chance to pass P/6 course and they did. We think the respondents cannot turn around and say third attempt was not permissible. The stand taken by the Railways is totally ill-founded. Once the applicants were selected for promotion to the post of Ticket Collector and were put in the panel of 1995 and once they qualified P/6 course in third attempt, they were entitled to get the posting and by not giving them posting, the respondents committed wrong. The names of the applicants cannot be scored out from the panel on the ground that they could not clear P/6 course in two attempts. The O.A. is to succeed.

8. So the impugned order dated 12.1.1999 (Annexure A-1) is hereby quashed with a direction to the respondents to promote the applicants on the basis of their position in the panel dated 20.1.1995 (Annexure A-2) from the date, they cleared P/6 course from Zonal Training Centre, Chandausi. The promotion upto the issuance of promotional orders, shall be notional and the applicants shall not be entitled to backwages for that period as they did not shoulder the responsibility of that post. The seniority position of the applicants shall be determined as per Rules accordingly. The respondents shall not score out their names from the panel of 1995 and if the same have been scored out by now, the same shall be restored and the promotional order passed as ordered above.

9. With these directions, the O.A. stands disposed. No order as to costs.


(N.D. Dayal)
Member (A)


(Justice Khem Karan)
Vice-Chairman.

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