

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD

Dated: Allahabad, this 21st day of November, 2000

Coram: Hon'ble Mr. S. Dayal, A.M.

Hon'ble Mr. Rafiq Uddin, J.M.

Original Application No. 1113 of 1999

1. Roop Chand Sharma,
s/o Kalu Ram Sharma,
aged about 32 years,
r/o Qr. No. R-6-H, Down Railway Colony,
Dehradun.
2. Gulveer Teotia,
s/o Sri Shyamnia Teotia,
aged about 31 years,
r/o Qr. No. WW-16-F,
R.P.F. Lines, Linepar,
Moradabad.

(By Advocate Sri A.B.L. Srivastava) . . . Applicants

Versus

1. Union of India, through
General Manager,
Northern Railways,
Haroda House, New Delhi.
2. The Divisional Railway Manager,
Northern Railway,
Moradabad Division,
Moradabad. (U.P.).
3. The Divisional Security Commissioner,
Railway Protection Force,
Northern Railways,
Moradabad Division,
Moradabad.

. . . Respondents.

(By Advocate Sri G.P. Agarwal)

O R D E R (Open Court)
(By Hon'ble Mr. S. Dayal, AM)

This application has been for setting aside the "impugned orders". On being asked to spell out "impugned orders", the learned counsel for the applicants stated that ^{by} the "impugned orders" he means Annexure No. A-1 which is letter dated 18.5.99 of Divisional Security Commissioner, R.P.F. The applicants also seek direction to Respondents to consider the applicants for promotion against the existing vacancies, if they qualify in the written test, as may be held. The case of the applicants is that they were working as Constables in R.P.F. since September, 1987 and June, 1987 respectively and are graduates. By the letter dated 29.11.79, the Railway Board had decided that Group 'D' staff in Railway Protection Force/ Railway Security Force would be considered for appointment to Class III (Group 'C') posts in Security Departments/other departments, if sufficient number of suitable persons were not available in Class IV (Group 'D') within the department to meet the prescribed per centage. The applicants had applied in response to the Notification dated 4.7.96 for Group 'C' posts against 33-1/3 quota to be filled up through written examination. The examination was held after several postponements on 25.10.97. The applicants had also been declared eligible for appearing in a subsequent written examination to be held on 20.12.97, but the examination has not been held so far. It appears that by a letter dated 15.18.5.99, the Respondent no.3 informed the applicants that they had ceased to be in Group 'D', as they have been given the pay-scale of Rs.3050- 4590 and that

they were not eligible to be considered for promotion to Group 'C' against 33-1/3 promotee quota from Group 'D'. This has given rise to this application before us.

2. We have heard Sri A.B.L. Srivastava for the applicants and Sri G.P. Agarwal for the Respondents. The learned counsel for the applicant has argued that when the examination was notified in 1996 the applicants were in Group 'D' and had applied as Group 'D' employees for vacancies against 33-1/3% promotee quota. It was only ~~the~~ later that they were given the pay-scale of Rs. 3050- 4590/- and, therefore, they were eligible to be considered against the Group 'C' promotion quota.

3. The learned counsel for the Respondents, on the other hand, has contended that the applicants are not entitled to the relief claimed, because the circular letter dated 10.5.96 (Annexure A-8 to the OA) by which the selection against the Group 'C' against 33-1/3% promotee quota was notified mentions specific categories of Group 'C' employees, who were entitled to appear for the said examination. These categories were Record Shorter, Free Service Clerk, Return Courier ^{Rowee} and ~~Radio~~ Operator. The Constables of RPF were not mentioned as a category. The second point of argument advanced by the learned counsel for the Respondents is that there were sufficient number of Group 'D' available for promotion against 33-1/3% promotion quota and, therefore, the applicants were not allowed to appear in the selection.

4. What has been considered by us ^{is} as to whether the applicants were eligible at the time the Notification

was issued for selection against 33-1/3% promotee quota. This Notification is dated 10.5.96. The applicants had applied in response to the said circular and by a letter dated 4.12.97 they were informed that a written test was to be held on 20.12.97 for the applicants, who belonged to the Railway Protection Force. We find that the Railway Board vide their letter No. PG-V/97/G/4 dated 4.12.97 (Annexure No.A-7 to the OA) had communicated the direction revising the scales of pay of R.P.F. staff including the Constables and the scale of the Constable became Rs.3050- 4590/- which is the same as the scale for the post of clerk Group 'C', for which examination was to be held. From these documents, it is clear that at the time the applications were invited, the applicants were eligible for being considered against the selection to Group 'C' against 33-1/3 promotee quota.

5. As regards the insufficiency of candidates in Group 'D' for promotion to 33-1/3% promotee quota in Group 'C' is concerned, the learned counsel for the applicant has contended that he had averred in Para 10(A) (v) that there were 23 vacancies under 33-1/3% promotee quota to be filled through Limited Departmental Competitive Examination and only 14 vacancies were filled and 9 remained available. We find from Annexure A-3(VI) that a panel was prepared of 11 candidates who were declared successful in the examination held on 25.10.97. The contention of the learned counsel for the applicants is that they have not denied that sufficient number of employees of eligible categories were not available in Group 'D' is, however, not borne out, as the respondents have denied such a contingency to be existing.

It is true that the applicants were declared eligible and notified, vide a letter dated 4.12.97 that they were to appear in a written examination on 20.12.97 and, thereafter, the examination has not been held. Therefore, we cannot hold it as an established fact that sufficient number of candidates from Group 'D' and Group 'C' categories, which were included in the Notification dated 10.5.96 were not available.

6. In the circumstances of the case, we consider it appropriate to direct the Respondents to consider as to whether sufficient number of candidates of permitted Group 'C' and 'D' categories existed for the vacancies, which were required to be filled up through examination held on 25.10.97 and whether such vacancies were available, when the Notification dated 4.12.97 was issued for permitting the R.P.F. staff to appear for the said 33-1/3% promotee quota. If it is established that the vacancies were available and sufficient number of candidates from Group C & D were not available, the Respondents shall hold the examination within a period of three months from the date of receipt of a copy of this order for the said number of vacancies for R.P.F. staff notified, vide Notification dated 4.12.97. No order as to costs.

Rajendra Nath
J.M. A.M.

Nath/