

RESERVED

**CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH ALLAHABAD.**

Original Application No.1177 of 1999

ALLAHABAD THIS THE 25th DAY OF NOVEMBER. 2005.

Hon'ble Mr.K. B.S. Rajan, Member-J.
Hon'ble Mr. A.K. Singh, Member-A

Raghuvar Dayal & Others(*)

.....Applicants.

(By Advocate : S/Sri S.K. Dey & S.K. Misra)

Versus.

Union of India & Others (*)

.....Respondents.

(By Advocate : Sri A.K. Gaur)

(*) Details of the parties is attached separately

O R D E R

BY K.B.S. RAJAN, MEMBER-J

The short question involved in this case is whether the applicants, who are at present semi skilled khalasi helpers (in the grade of 2650 - 4000) are entitled to the promotion to the grade of Rs 3050-4500 under the revised procedure introduced vide Railway Board Circular 28-09-1998 (Annexure A-2).

2. Brief facts: The applicants who were inducted into service between 1984 to 1991 as unskilled khalasi and who were promoted to the grade of semi skilled Khalasi helpers on the basis of seniority

and trade test have by now completed more than a decade of service in the said semi skilled post.

"... after coming into force of the Vth Pay Commission, the Railway Board has changed the same criteria and procedure vide letter dated 29.8.1998 and the criteria to fill up the post of Skilled Artisan is an under:-

- (a) 60% from direct recruits.
- (b) 20% from serving quota having three years service experience and must possess matriculation certificate/ITI certificate or Act Apprentice.
- (c) 20% from departmental candidates for which the seniority is the only criteria.

3. In accordance with the above ratio, the extent of posts available for being filled up under the 60% D.R. quota worked out to 175 which the respondents had processed, by calling the semi skilled and unskilled workers having the prescribed qualifications as contained in (a) above. Similarly, in respect of semi skilled workers falling under para (2) above, process was initiated to fill up the posts under that category. However, in so far as the third method i.e. 20% from departmental candidates for which the seniority is the only criteria, no such action has been taken. It is the case of the applicant that when 175 is the posts coming under 60% quota for direct recruitment, correspondingly, one-third thereof i.e. 59 posts should be available for being filled up under the third category i.e. 20% from departmental candidates for which seniority is the only criteria.

4. Respondents contend that since the applicants do not possess the qualifications there is no

question of their being considered for promotion to the skilled grade in the scale of Rs 3050-4500.

5. Arguments were heard and documents perused. The respondents have restructured the grades in the skilled, semi skilled and unskilled grade as under vide para 2 of the Railway Board Circular:-

Sl. No.	Scale	Existing o/o	Revised o/o
1.	950-1500/3050-4590	Nil	50%
2.	800-1150/2650-4000	80%	30%
3.	Rs.775-940/Rs.2550-3200	20%	10%
4.	To be surrendered	10%	10%

6. The above would go to show that the very base level of induction is at the grade of 2550 - 3200 and for this qualification is 8th pass, as contained in para 7 of the said order dated 28-09-1998 and promotion to the grade of 2650 - 4000 would continue to be as per the procedure existed prior to 28-09-1998. If the contention of the respondents that the semi skilled workers without the qualification prescribed under para 5 (i) or (ii) of the order dated 28-09-1998 cannot be promoted, then it would mean that those who were inducted in the base level of 2550 - 3200 with only 8th pass cannot get more than one promotion at all. This is against the view of the very Pay Commissions, on the recommendations of which the above said revised procedure has been

adopted, even according to the admission of the respondents vide para 5 of their counter. In a service career of any employee, there must be at least two promotions. Hence from this general point of view the contention of the respondents is erroneous.

7. Coming to the interpretation of the order dated 28-09-1998, the Board has trifurcated the posts in the grade of Rs 3550 - 4500 in the ratio of 60%, 20% and 20%. The first 60% is tenable by persons possessing the Apprenticeship or ITI passed or matriculation passed individuals. The next 20% is from among the unskilled and semi skilled workers with the qualifications as laid down in the Apprentice Act, as outlined in the Railway Board L.No. E(NG)I/96/PM7/56, dated 02-02-1998 and the rest i.e. 20% is filled up **by promotion of staff in the lower grade as per prescribed procedure.**

8. The claim of the applicants is for promotion under the third category. For this category no prescribed qualification has been laid down. The prescribed procedure shall be only seniority subject to rejection of unfit. In other words, whatever is the procedure adopted for promotion from unskilled to skilled has to be adopted for promotion of such semi skilled workers to the skilled grade. If there be any trade test, the same could at best be adopted. But denying completely the promotion of

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semi skilled to the grade of skilled on the ground that the individuals do not have the qualification, would result in the respondent's not being able to fill up the vacancies falling under the last 20% category.

9. The OA, therefore, succeeds. The applicants are entitled to be considered for promotion to the skilled grade of 3550 - 4500 on the basis of their seniority and with whatever qualifications they possess. The respondents are directed to fill up the share of vacancies falling under the 20% category (Cat. (iii) as contained in the Railway Board Circular dated 28-09-98) as per the prescribed procedure from amongst the semi skilled employees and if the applicants are senior enough, they too shall be considered for promotion to the said post of skilled grade. This drill has to be performed within a period of six months from the date of communication of this order. Those who are found fit for promotion to the skilled grade shall be placed below those 175 candidates who have been directly recruited (under para 5(i) of the order dated 28-09-1998) and those promoted from the semi skilled grade under para 5(ii) of the order dated 28-09-1998. Notional seniority and fixation of pay shall be afforded to them and their entitlement to actual pay in the grade of 3550- 4500 shall be from the date they are promoted in the said grade. No cost.

MEMBER-A

MEMBER-J

GIRISH/-

in the Central Administrative Tribunal, Allahabad.

1. Raghuvar Dayal S/o.Ram Prasad (7)
2. Bholu Nath Singh S/o.R.N.Singh (11)
3. Mohanlal Sharma S/o.Baljnath (23)
4. Ram Nand S/o.Ram Seeghashan (25)
5. Premchand S/o.Nanhku (26)
6. Lallan Ram Gond S/o.Pati Ram (28)
7. Shyamlal Yadav S/o.Aliyar (33)
8. Indra Deo Prasad S/o.R.B.Ram (36)
9. Ram Nath S/o.Matru Ram (37)
10. Brijlal S/o.Chhedilal (38)
11. Nandan Chowdhury S/o. Dukhran Chowdhury (39)
12. Manohar Ram S/o. (47)
13. Kaushalya Devi W/o.Kapil Devo (51)
14. Smt.Munna Khatun W/o.Akhtar Hussain (53)
15. D.D.Gupta S/o.R.D.Prasad (54)
16. Krishna Devi S/o.Sukalu (60)
17. Yogeshwar Pal S/o.R.K.Pall (61)
18. Shiv Murat Prasad S/o.Deonath Pd. (62)
19. Shyam Narain Singh S/o.R.S.Singh (63)
20. Sunil Kumar Dutta S/o.S.K.Dutta (78)
21. Janki Yadav S/o.Sonu Yadav (79)
22. Suresh Singh S/o.J.Singh (86)
23. Ram Bilash Rai S/o.P.R.Rai (88)
24. Shiv Lal S/o.Sona Lal (92)
25. R.C.Tiwari S/o.Ganga Tiwari (94)
26. Kalicharan S/o.Baiju (99)
27. Faujdar Ram S/o.Nirman Prasad (102)
28. Hira man S/o. Ram Kesh (106)
29. Balram S/o. R.K.Thakur (107)
30. Baleshwar Yadav S/o.B.Yadav (108)

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31. Ram Dular S/o. Shivdhar 1 (109)
 32. Nandlal Yadav S/o. Fakir Yadav (110)
 33. B.N. Pathak S/o. K. Pathak (118)
 34. Bipin Paswan S/o. Laxman Ram (119)
 35. Nemul Ansari S/o. A. Ansari (122)
 36. Smt. Tara Devi W/o. Sarju (130)
 37. Mahavir S/o. Banshi (139)
 38. Smt. Phul wati Devi W/o. Jamuna Prasad (164)
 39. Sarju Singh S/o. Shiv Pujan Singh (166)
 40. Chandeshwar Singh S/o. Sukhari Singh (170)
 41. Mangal Prasad Rawat S/o. Somaru Ram (171)
 42. Bijoy Kumar Rawat S/o. Jhuri Ram (173)
 43. Smt. Rajkumari W/o. Bholu Prasad (181)
 44. Smt. Parvati Devi W/o. Gaurishanker Ram (182)
 45. Ram Charan S/o. Mangar (66)
 46. Gajadhar Yadav (201)
 47. Kaula Prasad S/o. Chudhi Ram (89)
 48. All C/o. Ram Nand
- R/o. Loco Colony.

Mughalsarai Dt. Chandauli (Varanasi) ----- Applicants.

VS.

1. Union of India through the General Manager, E.Rly. Calcutta.
2. The Senior Divisional Personnel Officer, E.Rly. Mughalsarai.

Chandauli, U.P. &
.... Respondents.