

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
ALLAHABAD BENCH, ALLAHABAD.

....

ORIGINAL APPLICATION NO. 429 of 2000.

this the 27th day of March 2001.

HON'BLE MR. S. DAYAL, MEMBER (A)
HON'BLE MR. RAEEQ UDDIN, MEMBER (J)

Vinod Kumar Sharma, aged about 30 years, S/o Sri Ganesh Prasad Sharma, resident of Q. No. L/56-A, Railway Colony, Pilibhit,

2. Sayeed Qamer Abbas Zaidi, aged about 40 years, S/o Sri Mohd. Abbas, resident of Q. No. L-5/B, Railway Colony, Pilibhit.

3. Ram Chandra, aged about 40 years, S/o Sri Ram Sahai, resident of Village Bara, Post Pilibhit, District Pilibhit.

... Applicants.

By Advocate : Sri T.S. Pandey.

Versus.

Union of India through General Manager, N.E.R., Gorakhpur.

2. Divisional Railway Manager, N.E.R., Izzat Nagar, Bareilly.

3. Divisional Mechanical Engineer, N.E.R., Izzat Nagar, Bareilly.

... Respondents.

By Advocate : Sri K.P. Singh.

ORDER (ORAL)

S. DAYAL, MEMBER (A)

This application has been filed for setting-aside the reversion order dated 24.12.99 and posting order dated 4.1.2000 with the directions to the respondents to promote the applicants either on the post of Fire-man Grade-II in accordance with the Railway Board's circular dated 12.3.87 or on the post of Diesel Asstts. after completion of the training of the applicants.

2. The applicants in this case claimed to be working

as Engine Cleaners in the pay-scale of Rs. 2610-3540/- alongwith the additional running allowance and are posted in Diesel Lobby, Pilibhit, N.E.R., Izzatnagar Division, Bareilly. The applicants claimed that their next promotion was to the post of Fireman Grade-II and then Fireman-I, Shunter, Driver Goods, Driver passenger & Driver Mail/ Express. But due to change of traction, the Railway Board issued the circular dated 21.4.1989 for deployment of the surplus staff in accordance with the terms and conditions of the circular. The applicants/were declared surplus staff, were posted on the newly created supernumerary posts for the time being. The respondents invited the options of the applicants for the post of Diesel Asstts. The applicants submitted their option, but were not sent for training as Diesel Asstts. The applicants however,/^{were} reverted from the post of Engine Cleaners in the pay- scale of Rs. 2610-3540/- to the post of Khalasis in the pay-scale of Rs. 2550-3200/-. This order is being challenged in the present O.A.

3. We have heard the arguments of Sri T.S. Pandey, counsel for the applicant and Sri K.P. Singh, counsel for the respondents.

4. The learned counsel for the applicants has produced a copy of the circular of the Railway Board dated 21.4.1989. The circular contains the administrative guidelines regarding absorption and utilisation of surplus staff. The guidelines require/^{that} the advance planning should be done to identify areas in which the staff are likely to be rendered surplus. At such places/^{where} the surplus posts , which are lying vacant, should not be filled-up and surrendered as "vacancies" to the"bank of surplus posts." Appropriate schemes for providing training in alternative jobs as required, should be developed and planned at the time of advance planning itself so that these surplus staff can be suitably and quickly re-deployed

in other areas. Where the posts are not vacant and staff are working against them, special supernumerary posts in the same grade should be created. The incumbents borne against these special supernumerary posts should be re-deployed quickly against other posts by re-training as necessary. It was found that the administrative guidelines were not being followed and so the matter was discussed in the PNM meeting and following guidelines were reiterated :

(i) Each Railway Adminstration should draw an advance plan of action for identifying the areas where surplus staff are likely to be generated and advise the recognised unions in time, so far as possible about the same giving details of the staff likely to be rendered surplus.

(ii) No new activity should be started at the location, where the staff are likely to be rendered surplus, for accommodating them at the same place without the prior approval/sanction of the

whose special

warned the same, suitable proposals should be sent well in time to the Board with the personal approval of the General Manager, Board except that such cases will be few and far between. In no case Board's approval should be presumed.

(ii) Utilisation and re-deployment of surplus staff by re-training, if necessary, should be given the highest priority and their absorption will have precedence over all other modes of recruitment, including screening of casual labour and direct recruitment for filling-up the vacancies, so that the existing surplus staff can be first utilised at suitable locations, including places, where additional posts are created for operation/maintenance of additional/new ~~new~~ assets. Advance planning and obtaining the views of the unions as far as possible in time, regarding re-deployment of all staff is very essential, particularly when large number of staff are likely to be rendered surplus at a particular location."

In case the surplus staff was deployed in other units/Departments, constituting a different seniority unit, if only a small number of ~~posts~~ was transferred against the vacancies or newly sanctioned posts, they should be suitably adjusted in those units with their full seniority by merging the seniority in the respective units. In case a large number of staff was being rendered surplus and were being transferred to new units like traction roll stock overhead equipment, new electric locl sheds etc.

given

they should be/their full seniority and there should be no difficulty in re-deploying the staff with suitable re-training in identical scale and suitable trades. The learned counsel for the applicants has mentioned that the applicants were in receipt of pay-scale of Rs. 2610-3580/- alongwith running allowance of 30%. Instead of that pay-scale, they were transferred to the post of Khalasi in the pay-scale of Rs. 2850-3200/-.. The learned counsel for the applicants has mentioned that category of Engine Cleaners was not considered earlier for diesel conversion and only by the circular dated 21.4.1989, it was decided that the Engine Cleaners were given the training for Diesel conversion after which they will be deployed as Diesel Asstts. subject to vacancies. The D.R.M., N.E.R. was directed to conduct the selection of all surplus matriculate engine cleaners in his division and send the successful candidates for one year's training in the division, followed by six months at STC/GKP and six months at Diesel Shed, Gonda. He has also stated that the post of Diesel Assistants were to be filled-up according to the recruitment rules by lateral induction from among First Fireman, who are atleast 8th class pass and are below 45 years of age. In the case of shortfall, by promotion by usual selection procedure from among second Fireman who are atleast 8th class pass and are below 45 years of age. It was also provided in the Railway Board's circular no. B (NG)1/90/PM7/34 dated 16.7.1991 that on account of the progressive phasing out of steam traction, adequate number of First and Second Fireman were not available for filling-up the vacancies of Diesel Assistant and it necessitated direct recruitment to a great extent. In such a case, shortfall was to be made good by Departmental examination from amongst Matriculate cleaners with minimum 5 years continuous service. The contention of the learned

counsel for the applicants is, thus, two folds. Firstly, the applicants should be given identical pay-scale that they were enjoying before the impugned orders, were passed and secondly they should have been given the training and absorbed as Diesel Asstts.

5. The learned counsel for the respondents has mentioned that there were no vacancies available in the grade of Diesel Asstts. to accommodate the applicants and ^{they were}, therefore, absorbed in Electrical Department. It is claimed ^{since} ^{could not have been continued} that, their services ^{in the same traction} was wrong to say that the applicants have been reverted to the post of Khalasi.

6. The learned counsel for the applicants has claimed that the order dated 24.12.99 and 4.1.2000 amounted to reversion and were violative to Article 311 (2) of the Constitution of India. Besides, the applicant were not afforded an opportunity of being heard.

7. The facts of this case show that the railways had changed the traction of Steam locomotive to Diesel locomotive some time in the year 1989, when the circular dated 21.4.1989 was issued. The applicants appeared to have enjoyed the status of Engine Cleaners long back, when they were put on supernumerary posts, which is stated to be in the year 1993. The job of Engine cleaners in relation to Steam loco motives redundant became ^{when} when the traction was changed to Diesel Loco Motive. In such a situation, it is conceivable that a large number of employees ^{who} had become surplus, had to be considered against the limited vacancies of Diesel Asstts, which the applicants have also claimed and opted for. We do not accept the contention of the learned counsel for the applicants that in such a situation, the offer of the post of Khalasi to the applicant would amount to reversion. The learned counsel for the respondents has shown that the basic pay allowed to the applicants, was 3215/- while the post of Khalasis were in the

scale of Rs. 2550-3200/- Thus, the applicants have been allowed beyond the maximum of the scale ^{of Khalasi} because they had been drawing the higher pay at the time of passing of the impugned order.

8. The learned counsel for the applicants has mentioned that the applicants have already joined on the post of Khalasi in order to escape the disciplinary consequences.

9. We find from the Railway Board's circular dated 21.4.1989 that the intention of the Railway Board was to deploy the staff in an identical scale, we, therefore, direct the respondents to ensure the following :

(i) That the applicants are not paid less than salary what they were drawing before the impugned orders dated 24.12.1999 and 4.1.2000 were passed.

(ii) That the claim of the applicants for the post of Diesel Asstts. will be kept alive and the applicants shall be considered for the same according to the Rules, when their turn for absorption as Diesel Asstts. comes.

(iii) That the seniority of the applicant in the scale of Rs. 2610-3540/- would be given to them as and when they are considered for posting on a post in the said pay-scale or whenever vacancies in the higher posts are circulated to which the applicants can claim promotion.

(iv) ^{The first direction} ~~This exercise~~ will be complied within a period of three months from the date of communication of this order.

(v) No order as to costs.

Ranjit Mehta
MEMBER (J)
GIRISH/-

Dayal
MEMBER (A)