

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD.

Allahabad this the 13th day of November, 2003.

Original Application No. 667 of 2000.

Hon'ble Mrs. Meera Chhibber, Member- J.
Hon'ble Mr. D.R. Tiwari, Member- A.

1. Sukant Singh Rana S/o Sri Man Singh
2. Ved Pal Singh S/o Sri Heera Singh
3. Subhash Chandra Dey S/o Sri J.C. Dey
4. Mohd. Navi S/o Sri Pyare
5. Amar Jeet Singh, S/o Sri Trilok Singh
6. Brijraj Singh S/o Sri Balwant Singh
7. Heera Lal S/o Sri Manoge Prasad
8. Raj Bahadur S/o Sri Malkhan Singh
9. Rameshwar Singh S/o Sri Brindaban Singh
10. Radha Kiran Sharma S/o Sri Neelkanth Bhagwat
11. Jainullah S/o Sri Isha Mohd.
12. Ishlam Ahmad S/o Sri Danna
13. Ram Kumar S/o Sri Rameshwar Nath Shukla

.....All the applicants are working as Road Vehicle
Driver in the office of D.R.M (P), N.E. Rly.,
Izatnagar, Bareilly.

.....Applicants

Counsel for the applicants :- Sri S.K. Srivastava

V E R S U S

1. Union of India through Secretary, M/o Railways,
Rail Bhawan, New Delhi.
2. Divisional Railway Manager, N.E Rly,
Izatnagar, Bareilly.
3. Divisional Railway Manager (Personnel),
N.E Rly., Izatnagar, Bareilly.
4. General Manager (Karmik), N.E Rly.,
Gorakhpur.

.....Respondents

Counsel for the respondents :- Sri Lal ji Sinha



O R D E R

By Hon'ble Mrs. Meera Chhibber, Member- J.

By this O.A filed under section 19 of Administrative Tribunals Act, 1985, the applicants working as Road Vehicle Driver in the office of D.R.M (P), N.E. Rly., Izatnagar, Bareilly have sought for quashing of the notification dated 25.04.2000 with further direction to the respondents not to deprive ~~to~~ the applicants from promotion for the post of Works Mistry as from very begining Road Vehicle Drivers ~~have~~ been promoted on the post of Works Mistry. They have also sought direction to the respondents to proceed in the matter in accordance with the circular issued by the Railway Board.

2. It is submitted by the learned counsel for the applicants that all the applicants ^{were} ~~are~~ initially appointed as Khalasi in the office of respondent No. 2. Though they were promoted on the post of Road Vehicle Driver in grade-I, right from very begining the A.V.C of promotion provided the opportunity for promotion to the post of Works Mistry in the grade of Rs 4500-7000/- by conducting selection from amongst the grade-I employees of all artisan categories (works side) in Civil Engineering Department including Grade-I Road Vehicle Drivers and those Road Vehicle Drivers who are found suitable in the selection had been promoted as Works Mistry and in fact some of them have been given further promotion as Junior Engineer. For example the names of five candidates have been quoted in para 4.4 of the O.A who have been given further promotion after they were promoted as Works Mistry in different years.

3. The grievance of the applicants in this case is that right from very begining the Road Vehicle Drivers were granted promotion to the post of Works Mistry but by letter dated 25.04.2000 Road Vehicle Drivers have not been called for selection for the post of Works Mistry. It is absolutely



wrong, illegal and arbitrary.

4. Learned counsel for the applicants has further submitted that there is no chance of promotion for Road Vehicle Drivers in the Engineering Department whereas in other departments including workshop, class IV staff and artisan class III staff have avenue of channel of promotion even up to class II officers. Therefore, by depriving the applicants, who appeared in the selection for the post of Works Mistry, their entire chance of further promotions is being blocked. They have further submitted that by letter dated 19.02.1998 several Road Vehicle Drivers have been promoted as Works Mistry, therefore, applicants cannot be treated in ^a different manner. Promotion order dated 19.02.1998 is annexed as annexure- 2.

5. The counsel for the applicants has also submitted that even before the issuance of notification dated 25.04.2000, the applicants have already filed common objection on 31.03.2000 but without giving any reply, the notification dated 25.04.2000 has been issued by the respondents. Objection is filed as annexure -3. They have thus submitted that this impugned notification is liable to be quashed and set aside and the applicants may be given permission to appear in the selection to the post of Works Mistry.

6. Sri Lal ji Sinha, learned counsel for the respondents has opposed this O.A and has submitted that as per avenue of promotion (A.V.C) issued by G.M (P), N.E. Rly, Gorakhpur with the approval of the competent authority vide letter No. E/210/5 /AVC/Engg/IX-part I dated 25.05.1992 the post of Works Mistry scale of Rs. 1400-2300/ 4500-7000 is to be filled by promotion ^{from B} of Highly Skilled grade-I working in scale of Rs. 1320-2040 /-- 4500-7000 by seniority-cum-suitability test. According to this AVC the Road Vehicle Driver has no avenue for the post of

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Works Mistry. In the past due to administrative error some Drivers were allowed to appear in the suitability test for the post of Works Mistry and promoted as such. This matter was raised by a recognised union of N.E Rly., The matter was referred to G.M (P), Gorakhpur for decision vide letter No. Ka/AVC/Engg/ dated 21.07.1998 to this reply. The G.M (P) in turn communicated the decision to all concerned vide letter No. Ka/210/5/AVC/Engg/IX/Part-I dated 11.08.1999 copy of which has been annexed as annexure-II to the CA, that Road Vehicle Driver has no avenue for promotion as Works Mistry. As such the Road Vehicle Drivers have not been called for the suitability test for the post of Works Mistry. In support of their submission the respondents have annexed the letter dated 21.07.1998 as annexure- I to the SCA wherein it has been stated that N.R.M.U has raised objection that for filling the post of Works Mistry, Road Vehicle Drivers cannot be allowed to appear in the selection pursuant to which a decision was taken by the General Manager (P) and it was communicated to the D.R.M (P), N.E., Railway, Izatnagar, Bareilly wherein it has been specifically mentioned that 'the old avenue should continue. Drivers have no avenue for Mistry'. They have also annexed the copy of A.V.C for Works and Way Staff to show that for promotion to the post of Works Mistry in pay scale of Rs. 1400-2300 the ^{feeder} ~~feeder~~ category is Highly Skilled Gr.I (TT) (SD) Rs. 1320-2040. Subject to passing the prescribed trade test the post of Works Mistry will be filled in from Highly Skilled Gr.I, the Post of Motor Driver (950-1500)/Motor Mech.(950-1500) will be filled from unskilled/Khalasi or Khalasi Helper those having Motor Driving Licence. They have also annexed the letter dated 03.02.2000 whereby office of D.R.M (P) had informed with regard to the representation given by the Road Vehicle Drivers that there is no provision for giving promotion to the Road Vehicle Drivers to the post of Works Mistry in

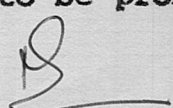
scale of Rs. 4500-7000/-.

7. Learned counsel for the respondents also invited our attention to para 7 of Suppl. CA wherein it is categorically stated that there is avenue for further promotion to Road Vehicle Drivers Gr.I in scale of Rs. 4500-7000 to that of Master Craftsman in the scale of Rs. 5000-8000/-. Therefore, it is wrong to say that the Road Vehicle Drivers have no avenue of promotion. This fact has not been controverted by the applicants in their RA.

8. On the basis of the averments and annexures, learned counsel for the respondents has submitted that the applicants have no right to claim promotion to the post of Works Mistry. Simply because some persons have been wrongly promoted to the post of Works Mistry, that will not give right to the applicants to claim promotion as Works Mistry.

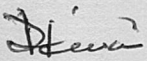
9. Since Sri S.K. Srivastava, counsel for the applicant was not present, we have heard Sri Lal Ji Sinha, learned counsel for the respondents by attracting rule 15(1) of C.A.T (Procedure) Rules, 1987 and perused the pleadings.


10. Applicants have not annexed any rule to show that the Road Vehicle Drivers are in the feeder cadre for promotion to the post of Works Mistry whereas respondents have annexed the avenue for promotion to the post of Works Mistry which clearly shows it has to be filled from amongst the Highly Skilled Gr.I (TT) (ST) in the scale of Rs 1320.2040 (4500-7000 RPS) whereas the same AVC shows that the post of Motor Driver was to be filled from the post of unskilled Khalasi/ Khalasi or Khalasi Helper having Motor Driving Licence. Therefore, the applicants cannot state that the Road Vehicle Drivers are entitled for promotion to the post of Works Mistry. They are entitled to be promoted as Master Craftsman,



therefore, it cannot be said that the applicants have no channel of promotion in the Engineering Department. Since the applicants have not been able to show that any of their legal right has been violated, this O.A calls for no interference. If some Road Vehicle Drivers were given promotion as Works Mistry under a wrong notion or by mistake, the court cannot give direction to the respondents to continue the same mistake again. After all the court can give direction to the respondents only if the applicants are able to satisfy the court that they have a legal right to the relief claimed by them in the original application.

11. In view of the above discussion, we do not find any merit in the O.A. The same is accordingly dismissed with no order as to costs.


Member- A.


Member- J.

/Anand/