

Reserved on 03.09.2013

**CENTRAL ADMINISTRATIVE TRIBUNAL**  
**ALLAHABAD BENCH,**  
**ALLAHABAD**

**Original Application No. 1367 of 2003**

Allahabad this the, 11<sup>th</sup> day of Sep/1, 2013

**Hon'ble Mr. Justice S.S. Tiwari, Sr. J.M./HOD**  
**Hon'ble Mr. Shashi Prakash, Member (A)**

1. Het Singh Yadav son of Sri Ram aged about 45 years resident of C/o Sri Om Pal Shakaya, Ashok Nagar, Maninanath, Bareilly (U.P.).  
Presently not working as Goods Attendant (CA) at Kasganj, N.E. Railway Station.
2. Fassil Beg son of late Sri Saddiq Beg aged about 35 years resident of 119/260 Gali Chaudhary, Bareilly (U.P.).
3. Ram Bhajan son of Sri Jeevan Lal, aged about 48 years Resident of Quarter No. 7/16H Railway Colony, Jal Ram Mohalla Kasganj, District Etah (U.P.).  
Presently is not working as C.A. at Bareilly City Station.
4. Ramesh Chandra son of Sri Nathoo Lal, aged about 48 years R/o Mohalla Banjayawalla, Soraon, District Etah (U.P.).  
Presently is not working as C.A. at Bareilly City Station.
5. Rajendra Prasad son of Sri Ram Charan aged about 52 years R/o Mohalla Pajaya Wala P.O. Soran, Sukar Region, District – Etah (U.P.).  
Present is not working as C.A. at Bareilly City Station.
6. Malbhan Singh S/o Sri Nathoo Lal aged about 51 years R/o Mohalla Bajara Wala Katra Soraon District – Etah (U.P.)  
Presently is not working as C.A. at Station Kasganj.
7. Lal Babu s/o Sri Dukhi aged about 45 years R/o H. No. 67, Laxmi Narain Mandir Lane, Kuwarpur, Bareilly.  
Presently is not working as C.A. at Bareilly City Station.
8. Murari Lal son of Sri Khund Lal aged about 49 years R/o Kasganj, District Etah (U.P.) Presently is working as C.A. at Station Kasganj, District – Etah (U.P.).
9. Rajeev Misra son of Sri H.C. Misra, aged about 44 years R/o 13, Bunglow Chacupula Railway Colony, Bareilly, Presently is not working as C.A. at Station Kasganj.

10. Ravindra Nath Srivastava son of Sri Krishan Lal aged about 51 years R/o Krishna Nagar, Prabhat Sadan, Izzatnagar, Bareilly (U.P.) Presently is not working as C.A. at Kasganj Railway Station.
11. Tej Ram son of Sri Gumsani Ram, aged about 44 years R/o 166 Civil Lines, Bareilly. Presently is not working as C.A. (Sad Role) attached at Kalbigodam, District - Nainital Uttranchal.

### Applicants

#### By Advocate: Sri R.C. Pathak

### **Versus**

1. Union of India, through General Manager, N.E. Railway, Gorakhpur.
2. Divisional Railmanager DRM, N.R. Railway, Izzatnagar, Bareilly.
3. Divisional Railway Manager (Personnel), N.E. Railway, Izzatnagar Division, Bareilly.
4. Senior Divisional Personnel Officer, N.E. Railway, Izzatnagar, Bareilly.
5. Senior Divisional Commercial Manager, N.E. Railway, Izzatnagar, Bareilly.
6. Chief Workshop Manager, N.E. Railway, Izzatnagar, Bareilly (U.P.).
7. Chief T.T. Inspector, N.E. Railway, Kasganj, (U.P.).
8. Chief T.T. Inspector, N.E. Railway, Bareilly City, Bareilly (U.P.).
9. Sri Shiv Kumar Yadav (Hammal) Posted as Coach Attendant Parcel Office, N.E. Rly. Bareilly City, Bareilly.
10. Sri Brijesh Sagar (Hammal) Posted as Coach Attendant, N.E. Rly. Bareilly (U.P.).
11. Sri Yardram (Hammal) Posted as Coach Attendant, N.E. Rly. Bareilly (U.P.).
12. Sri Narendra Kumar (Hammal) Posted as Coach Attendant, N.E. Rly., Bareilly (U.P.).

### Respondents

#### By Advocate: Sri K.P. Singh



## O R D E R

### **By Hon'ble Mr. Justice S.S. Tiwari, Sr. J.M./H.O.D.**

By the instant O.A., the applicants (11 in number) have prayed for the following relief(s): -

- (i) Issue a suitable order and direction in the nature of CERTIORARI quashing the orders dated 17.1.2003 and 17.10.2003 (Annexure No. A-1 and A-2 in the O.A.).
- (ii) Issue a writ, order or direction by way of MANDAMUS commanding the respondents to permit the applicants to work as Coach Attendant, having a vast experience on the said post.
- (iii) Issue a writ, order or direction by way of MANDAMUS commanding the respondents to place all the relevant documents with regards declaring the applicants surplus on post of Coach Attendant and again appointing a fresh Coach Attendants including the complaints of the passengers.
- (iv) Issue a writ, order or direction to the respondent No. 2 to decide the representations dated 25.10.2003 made by the applicants by a reasoned and speaking order.
- (v) Issue a suitable order or direction, which this Hon'ble Tribunal may deem fit and proper in the circumstances of the case.
- (vi) To award the cost of the application to the applicants."

2. The brief facts of the O.A. are as follows: -

The applicants were initially appointed as Hammal Gangman and Khalasi in North Eastern Railway at Bareilly, and later on they were promoted as Coach Attendant between 1981 to 1996. Subsequently, by a letter issued by respondent No. 1, as a policy decision, the applicants were declared surplus and without inviting any option from the applicants they were directed to be absorbed in the Workshop under the control of Chief Workshop Manager, N.E. Railway after their screening. The applicants protested against it and sent representations to the respondents but, all in vain. Subsequently, the respondent No. 5 issued notification calling fresh applications for appointment on the post of Coach Attendant from the lower post of Hammal, leaving aside surplus experienced



Coaching Attendants. The applicants have been forced to join the Workshop where their future chances of promotion will be marred. Hence, this O.A. was filed by the applicants mainly on the grounds that the Railway Board vide its letter dated 16.07.2001 had specifically stipulated to give option for absorption to surplus employee but in the present case no option was invited from the applicants; in case applicants are absorbed in the Workshop, they would not be entitled to appear in the future selection for the post of Ticket Collector; the examination held for Ticket Collector in which applicants appeared, has been deliberately cancelled by the respondents out of vengeance; the order of respondents, declaring the applicants as surplus, is illegal and unjust; the representations moved by the applicants regarding their above grievances have illegally been decided by the respondents against them.

3. The respondents have filed the Counter Reply rebutting the allegations made by the applicants in their O.A. stating that the Railway Board had provided for inviting options from the surplus declared staff only in those cases where they were to be deployed in a new establishment created by Railway for new and fresh job. In the present case, there was no vacancy in any other unit and the surplus Coach Attendant staff was to be adjusted only in the Workshop, therefore, there was no justification in inviting options from the applicants. Moreover, there is no such provision for inviting options in such circumstances. It is submitted by the respondents that the declaration of surplus staff was necessitated due to reduction of work in the Railway and on account of reduction of work, the post of Coach Attendant was surrendered, and employees working against these posts were declared surplus but



they have been adjusted considering their seniority and pay. None of the applicants have been put to loss or forced to join on any lower post on lower pay scale. One time opportunity was given to the Coach Attendants, who were declared surplus, for promotion as a special case in compliance of the Hon'ble Tribunal's Order to appear in the selection for the post of Ticket Collector in the pay scale of ₹3050-4590/-. When the examination of Ticket Collector was held for the first time, the applicants did not appear in the same as they were absconding from duty. The examination was again held on 06.04.2003 in which they had appeared. It is incorrect to say that by joining in the Workshop, they had no opportunity to appear in the examination for the post of Ticket Collector.

4. The respondents have further submitted that the letter dated 17.10.2003 was not an order of posting of Hammals who can perform the duty of Coach Attendants. However, the order dated 17.10.2003 has been withdrawn by letter No. C/432/Coach Paricharak/94 dated 09.01.2004. The applicants have already been absorbed. As they have already been absorbed, the O.A. has become infructuous and deserves to be dismissed.

5. The applicants have filed the Rejoinder Affidavit mainly reiterating the stands taken in the O.A.

6. The applicants have also placed reliance on documentary evidence, which is annexure A-1 to annexure A-37. On the other hand, the respondents have filed annexure - 'A' in support of their contentions.

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7. Heard the learned counsel for the parties and perused the documents on record.

8. The main contention of learned counsel for the applicants is that the applicants who were declared surplus staff from the post of Coach Attendant were not given opportunity to file their options for the post on which they may be absorbed. This act of the respondents was arbitrary, malafide and unjust. It has also been contended that the respondents subsequently invited applications from the Hammals for posting them on the post of Coach Attendants in the first class compartments which shows that they had deliberately declared the Coach Attendants, already working, as surplus. It is also submitted that after joining in the Workshop, the applicants will have no opportunity to appear in the examination of Ticket Collector, and chances of their future promotion will be zero.

9. As regards the first submission raised by applicants' counsel, it has been submitted by the respondents' counsel that on account of reduction of work of the Coach Attendants, a policy decision was taken to abolish the post of Coach Attendant, and accordingly the applicants were declared surplus. It is further submitted that the applicants were not put to any loss as they were posted in the Workshop at Izzat Nagar on the same pay scale and equivalent post since no other suitable vacancy was available to adjust them. It is also submitted that there is no such specific provision under the Railways Act to call for an option from the employee so declared surplus when no other vacancies were available for adjusting them. If fresh posting or fresh job in different units has to be made, only then option has to be called. In the present case, since there was no other unit available for adjusting the applicants, there was no need



to call for any option from the applicants. It is also submitted by the respondents that the letter dated 17.10.2003 has already been withdrawn by the respondents on 09.01.2004. Hence, the applicants cannot get any benefit of the same. It is also submitted that the Coach Attendants, who were declared surplus, have been given one opportunity for their selection on the post of Ticket Collector by holding an examination for direct recruitment to the post of Ticket Collector. It is incorrect to say that after joining in the Workshop, the applicants had no opportunity to appear in the examination for any promotional post.

10. Learned counsel for the applicants could not show any letter or circular of the respondents that even in case where there are no various units for absorbing the surplus declared staff, calling for option is necessary. The respondents have filed the letter in which question of option was explained that the option is called for in such circumstances where the posting of surplus staff has to be made in different units and on different posts. But, in the present case, no such vacancy was available hence, there was no question for inviting options from the applicants. It also appears from the records that the applicants were permitted to avail one time opportunity to appear in the examination for recruitment to the post of Ticket Collector. It is also stated, at bar, by the respondents' counsel that all the applicants have already been adjusted on the equivalent post and no loss has been caused to any employee who was declared surplus. Learned counsel for the applicants could not rebut this argument by any specific instance.



11. In view of the above facts and circumstances, it is concluded that the applicants have got no case. O.A. is devoid of merits. It deserves to be dismissed. O.A. is hereby dismissed accordingly. No order as to costs.



Member - A



Member - J

/M.M/