

Reserved on 3.8.2017

Central Administrative Tribunal, Allahabad Bench,

Allahabad

Original Application No.330/00071/2006

This the 19th day of August, 2017

Hon'ble Mr. Justice Dinesh Gupta, Member (J)

Hon'ble Mr. Gokul Chandra Pati, Member (A)

1. Umesh Kumar Sinha aged about 48 years son of late Jagta Nand Sinha resident of Railway Quarter No. 1512-D, Manas Nagar Colony, Mughal Sarai.
2. Sailesh Chandra Chaturvedi, aged about 47 years, son of Sri Brijesh Chaturvedi, resident of Railway Quarter No. 198 D.E.F., European Colony, Mughal Sarai.
3. Nar Singh Mistry, aged about 50 years son of Sri Ram Sanahi Mistry, resident of Railway Quarter No. 1447-A, Plant Depot Colony, Mughal Sarai.
4. Pramod Kumar aged about 49 years son of Sri Ram Chandra Sha, resident of Railway Quarter No. 123-B, Manas Nagar, Railway Quarter No.1233-B, Manas Nagar Colony, Mughal Sarai.
5. B.K. Srivastava, aged about 52 years son of late B.N. Prasad resident of Railway Quarter No. 447, C.D. European Colony, Mughal Sarai.

Applicants

By Advocate: Sri A.K.Srivastava

Versus

1. Union of India through General Manager, East Central Railway, Hajipur.
2. Chief Personnel Officer, East Central Railway, Hajipur.
3. Divisional Railway Manager, East Central Railway, Mughal Sarai Division, Mughal Sarai.
4. Senior Divisional Personnel Officer, East Central Railway, Mughal Sarai Division, Mughalsarai.

Respondents

By Advocate: Sri Ravi Ranjan



ORDER

HON'BLE MR. JUSTICE DINESH GUPTA, MEMBER (J)

The applicants preferred this Original Application u/s 19 of the AT Act, with the following reliefs:-

“i) This Hon'ble Tribunal may graciously be pleased to direct the respondents to bend the selection of P.S. II which was held on 25.5.2004 and selection and posting of the Post have been done at Head Quarter level only after completing inter-se-seniority of the illegible candidates of all the divisions of East Central Railway because the post of Stenographer Grade Rs. 5500-9000 is the centralized post.

ii) Issue any other order/direction as this Hon'ble Tribunal may deem fit and proper in the circumstances of the case.

iii) Allow the application with cost.”

2. The brief facts emerging from the O.A. are that the applicants are working as Stenographer in grade Rs. 5500-9000 at Divisional Railway, Manager Office, Mughal Sarai of East Central Railway, Hajipur.

2.1 The respondent No. 2 has conducted written examination of Stenographer Grade Rs. 5500-9000 for promotion to the grade Rs.6500-10500/- at the post of PS II against the codes and Manuals. Such action is against the policy dated 24-10.2002 (Annexure -1).

2.2 The respondent No. 2 has conducted the written examination of his own staff of the Head Quarter Office, Hajipur and promoted and posted them.

2.3 Applicants made representations. Senior Divisional Personnel Officer, East Central Railway, Mugal Sarai has




forwarded the representation of the applicants to respondent No. 2 but no action has been taken.

2.4 The direction and instructions in the shape of information has been issued to all Divisions that the codes and Manuals of the Eastern Railway shall be applicable to East Central Railway, Hajipur till new Codes and Manuals are made by the Railway Board.

3. Notices were issued to the respondents who in turn filed the counter reply through which it is submitted that the Original Application is not filed within the limitation period as prescribed under Section 21 of the AT Act, 1985 and is without exhausting the departmental remedy, hence the same is liable to be dismissed.

3.1 It is further stated that a written examination for selection to the post of PS II was held on 25.5.2004 in Head Quarter restricted to Head Quarters based eligible stenographers working in grade 5500-9000/-.The applicants who are working as Stenographer in grade 5500-9000 under DRM/Mughal Sarai have filed this O.A. with the prayer to include their names in the zone for consideration for promotion to the post of PS II in grade 6500-10500 based on zonal seniority.

3.2 It is stated that claim of the applicants are not tenable as per existing rules because the Stenographers and PS-II were Head Quarters controlled posts which were decentralized w.e.f. 12.8.2003 vide memorandum



dated 12.8.2003. Hence the posts of Stenographers and PS II were no more Head Quarter controlled. The promotions of applicants would be based on Divisional vacancy as and when occurred.

3.4 It is submitted that a written examination for formation of panel to the post of PS II was held on 25.5.2004 in Head Quarter at Hajipur restricted to Head Quarters based stenographers is as per Rules because the post of PS II had been decentralized w.e.f. 12.8.2003.

Memorandum dated 12.8.2003 is reproduced below:-

"The competent authority passed the following orders to take immediate effect:-

- i) All school cadre of ECR shall remain HQ controlled.
- ii) Except CWI & CPI Gr.Rs. 7450-11500/- (RSRP), all other posts of Personnel Deptt. In ECR stand decentralized. Only these two posts shall be HQ controlled."


3.5 The applicants had come under the administrative control of Divisional Railway Manager, Mughal Sarai w.e.f. 12.8.2003. As far as framing of policy is concerned, the General Manager is authorized to make a policy under the provision of Indian Railway Establishment Manual Volume I for functioning of the Railway safe and smooth.

4. Applicants counsel has not filed any Rejoinder Reply to the Counter Reply.

5. Heard the learned counsel for applicants Sri A.K.Srivastava and learned counsel for respondents Sri Ravi Ranjan.

6. Counsel for the applicants submitted that before commencement of the examination, the applicants submitted representations through their Union to the General Manager, East Central Railway stating that list of the candidates notified and called for the post of P.S. II in the grade of Rs. 6500-10,500/- does not contain the name of the candidates who are working in the Divisions and therefore, requested that the names of the applicants should be included in the list of zone of eligibility and till such time, the proposed date of holding the examination should be postponed. However, in spite of these representations, the respondents have conducted the examination on 25.5.2004 and selection was done at Head Quarter level only. Applicants filed this O.A. at that time. However, the respondents have filed reply to the O.A. and taken a totally different view. Now, by lapse of time, the applicants have already been promoted ^{to} ~~on~~ the post but their inter-se-seniority is still in dispute.

7. The counsel for respondents submitted that the Original Application has become in-fructuous by lapse of time as the applicants have challenged the selection held on 25.5.2004 and after that, much water has flown and some of the selected candidates have already retired.



Even, it is not known whether the applicants are still in service or not. However, the respondents have reiterated the facts as stated in the counter reply.


8. We are unable to accept the contentions raised by the learned counsel for the applicant.


9. It is true that the applicants have challenged the selection held on 25.5.2004 and now at this stage it is not possible for this Tribunal to grant the relief claimed by the applicants. Further, the respondents have clarified the situation through their counter reply and demonstrated before us that as per existing rules, the post of P.S. II were earlier Head Quarter controlled post which was decentralized w.e.f. 12.8.2003. It was also clarified by G.M. (Personnel) Hazipur that the posts of Stenographer and P.S. II were no more Head Quarter controlled post and promotions of the applicants would be based on Divisional vacancy as and when it will occur. The examination conducted by the respondents for formation of panel to the post of PS.II was held on 25.5.2004 in Head Quarter level at Hazipur restricting it to Head Quarter based Stenographers working in scale Rs. 5500-9000/- as per Railway Rules because the post of P.S. II in the scale Rs. 6500-10500/- had been de-centralized w.e.f. 12.8.2003.



10. In view of the facts and circumstances stated above,
O.A. lacks merit and deserves to be dismissed.

Accordingly, O.A. is dismissed. No order as to costs.


(Gokul Chandra Pati)
Member (A)


(Justice Dinesh Gupta)
Member (J)

HLS/-