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RESERVED

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD.

Dated : This the 29th day of October, 2007

Hon'ble Mr. Justice Khem Karan, Vice Chairman
Hon'ble Mr. P.K. Chatterji, Member (A)

Original Application No. 858 of 2006

1. Lal Bahadur S/o late Sri Madho Singh, R/o Village Nagla Ram Phal Post Raja Ka Bag Distt: Etawah.
2. Mohan Lal, S/o late Sri Balak Ram, R/o Village and Post Baba Ka Purva (Phaphund), Distt: Auraiya.
3. Murlidhar, S/o late Banshidhar, R/o Mohalla Sanjay Nagar Purana P.W. I behind to store Debiapur, Distt: Auraiya.

. . . Applicants

By Adv: Sri B.N. Singh

V E R S U S

1. Union of India through General Manager, North Central Railway, HQs Office, Allahabad.
2. Divisional Railway Manager, North Central Railway, Allahabad.
3. Senior Divisional Personnel Officer, North Central Railway, D.R.M's Office, Allahabad.
4. Senior Divisional Commercial Manager, North Central Railway, D.R.M's Office, Allahabad.
5. Assistant Personnel Officer, N.C. Railway, Allahabad.

. . . Respondents

By Adv: Sri P.N. Rai

Alongwith

Original Application No. 359 of 2006

1. Ram Vishal, S/o late S.K. Tiwari, R/o H. No. 475C, NC Railway Colony, Tejab Mill, PO Anwar Ganj Distt: Kanpur.

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2. Tej Singh, S/o Sri Ram Chandra, R/o Vill Phoolpur, Post Chandikara, Distt: Mainpuri.
3. Ram Bujharath, S/o Jagdeo, R/o H.No. 225A City Side Railway Colony, PO Nayaganj Kanpur.
4. Munnal Lal, S/o Lazza Ram, R/o Near Railway Station Bhagaon, PO Bhagaon, Kanpur.

. . . Applicant

By Adv: Sri B.N. Singh

V E R S U S

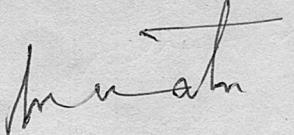
1. Union of India through General Manager, North Central Railway, HQs Office, Allahabad.
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4. Senior Divisional Commercial Manager, North Central Railway, D.R.M's Office, Allahabad.
5. Assistant Personnel Officer, N.C. Railway, DRM's Office, Allahabad.
6. Shri Mohammad Ahmad, S/o Sri Zahid Hussain, working as CA Kanpur, through CIT, N.C. Railway Kanpur.
7. Sri Govind Prasad, S/o Ram Bharose, working as CA Kanpur, through CIT, N.C. Railway Kanpur.

. . . Respondents

By Adv: Sri P.N. Rai

O R D E RBy Hon'ble Mr. P.K. Chatterji, Member (A)

The applicants in both OAs, three in OA 858/06 and four in OA 359/06, were initially appointed as Group 'D' staff in the Railways. They were selected and appointed as Coach Attendants who are required to discharge the duties in Corridor type first class coaches, in AC two tire sleeper coached as well as 2nd class reserved coaches. As a result of the

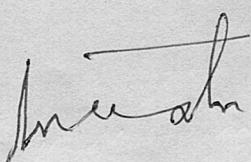


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decision of the Railway to Phase out first class non AC coaches a large number of coach attendants became surplus. After they were declared surplus the applicants continued to be paid their salary as coach attendant by deploying them as attended in AC and non AC coaches. It was decided by the Railways that until a clear decision was taken regarding redeployment they would continue to be treated as coach attendants, if necessary by creating supernumerary post. However on 30.09.2005 the applicants were given orders of their redeployment by memo No. 941-E/ET-4/CA/redeployment/2004. Vide this order the applicants were informed that barring 04 senior most coach attendants whose service were still required as such, all other erstwhile coach attendants were treated as surplus. They were further informed that they were redeployed as Helper Khalasi in same pay scale of coach attendant i.e. Rs. 2650-4000. This is the letter which has been challenged by the applicants in these two OAs.

2. The applicants also challenged the provisional seniority list of the coach attendant of the commercial division circulated on 27.09.2005 (Annexure A-2).

3. The applicants have stated that there are 05 categories of attendants in the Railways:



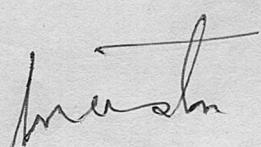
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- a. Coach Attendants
- b. Passenger Attendants
- c. Passenger Attendants AC coach
- d. AC coach attendant
- e. AC passenger Attendants

The pay scale of the 5 categories are equal and they were of equal status.

4. The applicants have further stated that the job of coach attendants are more or less similar. It is not that they who had been initially selected as Coach attendant in non AC first class coaches (now phased out) are unable to perform the job of attendants in AC type compartments. The work was often performed by them on interchangeable basis when ever there was dearth of attendants to man AC coaches. Therefore, the applicants are quite acquainted with the job.

5. Not only that, the applicants have also stated that a large number of vacancies exists for work in AC type coaches, and many other lower category staff such as khalasi are being allowed to work as attendants in these coaches on ad-hoc basis. Therefore, it is not at all difficult for the respondents to redesignate them as attendant in any other amongst the four categories apart from coach attendants and allow them to work as such. The applicants also say that this has been done in other divisions and zones of the Indian Railways and,



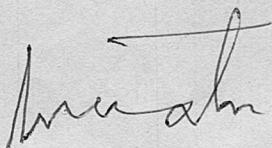
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therefore, there is no reason why the same could not be possible in their case.

6. The applicants feel utmost aggrieved because as a result of their redeployment as Helper they will be permanently debarred from promotion as Ticket Collector as this would be open to officials in the Commercial department alone. While their counter parts in the AC coaches would be eligible for being considered for such promotion they would permanently miss the opportunity. The applicants have also stated that the other zones in Railways have allowed this. It is also stated that in consequence of a judgment delivered by the Chandigarh Bench of the Tribunal in OA No. 286-PB/01 DRM, NR Firozpur absorbed the applicants in the category of ticket checking staff vide letter dated 16.04.2001.

7. With these submissions the applicants have prayed for the following reliefs:

- "i. issue order or direction to quash the order dated 30.09.2005 (Annexure A-1) and provisional seniority list dated 27.09.2005 (Annexure A-2).
- ii. issue order or direction to respondents to re-deployed to the applicants as passenger attendant, passenger attendant (AC coaches), Air Condition Coach Attendant and Air Condition Passenger Attendant in equal status and scale of pay as per Railway Board (Authorized pay) Rules 1960.
- iii issue order or direction to the respondents to allow the duties in reserved sleeper coaches as Coach attendant as per railway board letter dated 9.2.90.



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iv. issue order or direction to respondents to absorb to the applicants in Ticket Checking category by holding suitability test as done in other Division of the Railway in similar situated case keeping in view of the experience against by them since 1998 after being declared surplus as coach attendants while working as TC.

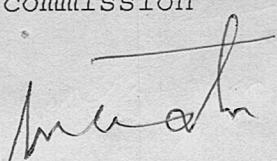
v. issue any other order or direction in the facts and circumstances of the case which this Hon'ble Tribunal may deem fit and proper.

vi. to award cost of the petition in favour of the petitioner."

8. The grounds given by the applicants may be summed up as follows:

- a. The job of the coach attendants which they were earlier performing belong to the commercial department whereas the job of helper khalasi to which they were being redeployed was technical.
- b. Looking at the over all staff position of the attendants in all categories, one would find that there are still vacancies in the cadres sufficient to absorb all the surplus coach attendants.
- c. The applicants were working as coach attendant for the last 29 years and therefore, it was unfair to redeploy them to a job which is not commercial in nature but involves physical labour.
- d. In other units of the Railways the same coach attendants after being rendered surplus were absorbed as Ticket checking staff.

- e. In consequence of the decision of Chandigarh Bench the applicants who are similarly placed have been accommodated as ticket checking staff.
- f. The applicants' service have alongwith utilized in second class sleeper coaches under the supervision of TTE without any difficulty and as per instructions of the Railway Board and the GM. Therefore, they may be allowed to continue to work as attendants against the large number of existing vacancies.
- g. The decision to redeploy them as Helper Khalasi goes against the assurance given by the respondents to the recognized union that coach attendants could be absorbed suitably according to their experience where they could be better utilized in the interest of Railways.
- h. After redeployment as Helper Khalasi their prospect of promotion as TC and up words will be permanently lost.
- i. Even daily rated casual labour of commercial department who were engaged for a few days for assisting booking clerks/TCs (i.e. the Mobile Booking Clerks) had since been regularized as TCs. But this chance is being denied to the applicant.
- j. The applicants made several representations before the respondents i.e. DRM, Allahabad and G.M. NCR, Allahabad but no response has been given as yet.
- k. The post of Coach Attendant was a Class III post as recognized by the 3rd pay commission

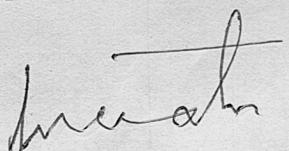


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which that of the Helper Khalasi is a Group 'D' post. The respondents, therefore, have not provided an alternative job in the same category.

9. The respondents have vehemently denied the allegations. The points which has been raised in refuting the charges are as follows:

- a. The surplus staff in a department has no right to choose the type and category of posts to which they would be redeployed. The respondents have the liberty to decide such issues this being in the executive domain.
- b. Although the respondents have not disputed the facts of the case as submitted by the applicants, they have stated that after they were rendered surplus they were allowed to work as attendants in 2nd class coaches only as an ad-hoc arrangement pending finalization of the decision of their redeployment. The respondents have not failed in their responsibility. During this intervening period they have also been paid salary which they were drawing as coach attendants.
- c. The respondents have denied that the post of coach attendant was a Group 'C' category. It has been emphatically stated that the grade of Helper Khalasi and coach attendants are same, both group 'C' posts carrying the same pay scale of Rs. 2650-4000.
- d. The respondents have stated that the present applicants were given adequate opportunity



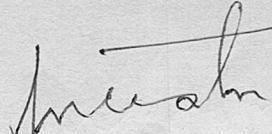
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towards selection TC in the Commercial Department. They were allowed to take part in the selection. However, they could not qualify. It has not been denied by the respondents that in other units erstwhile coach attendants were redeployed in the Commercial department. However, it is stated by the respondents that inspite of giving chance to the applicants, they failed to qualify.

- e. The respondents have also denied that representations made by the applicants were not addressed and replied to. The applicants' counsel has produced a copy of the order dated 21.12.2006 from the office of DRM N.R. In this order the representation made by the applicants have been replied to para-wise and point by point.
- f. Regarding the seniority list which has been impugned in this OA the respondents have stated that after review of the matters the respondents have decided that only four of the erstwhile coach attendants were required to continue as coach attendants. For this reason the four senior most attendants were retained as such. The rest has been directed to redeploy as helper khalasi.

10. With these submission the respondents has prayed for dismissal of the OA.

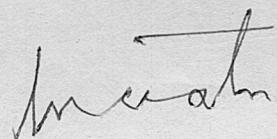
11. We have applied our mind after perusing the rival submissions and hearing the arguments. It is true, as the respondents have stated, that officials who were rendered surplus in an organization due to



change in operation or any other reason have no right or choice regarding redeployment. The executive have full discretion in the matter unless there is any violation of natural justice in dealing with the matter, and unless some right which has accrued to the officials such as entitlement to a certain grade and pay scale, the decision of the respondents cannot be questioned. Technically speaking therefore the respondents decision does not suffer from any infirmity.

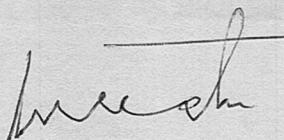
12. We have also noted that the applicants were given the scope of selection as TC. The post of TC however, is above that of coach attendant, and therefore, the selection has to be made by a due process laid down in the departmental rules. In this case the applicants were given the chance, but they could not qualify. Therefore, now they cannot complain say that they were being permanently debarred from the avenues of promotion available in the commercial department. The respondents' answer that the grade and pay scale of Helper, Khalasi being the same as coach attendants, their decisions cannot be faulted is also acceptable to us.

13. The respondents however, have not provided any response to the point made by the applicants that in other units in the Railways coach attendants after being rendered surplus have been accommodated within the commercial departments as other categories of

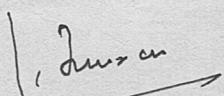


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attendants. They have also not contradicted that vacancies still exist in the other categories of attendants such as 2nd class coaches, AC coaches etc. It has also not been denied by them that as coach attendants occasionally the applicants were working as attendants in other coaches also. Therefore, they are not totally alien to such function and not really unfamiliar with the job involved. It is true that looking at the relief we are not able to grant the same for reasons stated in the above para. In that sense we are not allowing these OAs. However, we are of the view that the respondents should seriously consider the possibility of accommodating the applicants in the other categories of attendants as described in para 3 against the vacancies, as it was done in other units. If on consideration of this possibility (in view of the vacancies existing in that cadre) it is found to be possible to accommodate the applicants as attendants, the respondents will modify the impugned order and issue suitable revised order. The decision of the respondents in this order however will be final and therefore no further liberty is given to the applicant to file any OA on the same matter. With these directions both the OAs are disposed of. No cost.



Member (A)



Vice-Chairman

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