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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

Original Application No.36 of 1989.

Date of decision **6.2.1992**

S.N.Dash and others ... Applicants.

Versus

Union of India and others ... Respondents.

For the applicants ... Mr.G.A.R.Dora, Advocate.

For the respondents 1 to 3 .. Mr.R.C.Ratha,
Standing Counsel (Railways)

For the respondents 4 to 8 ..M/s.Deepak Misra,
R. N.Naik, A.Deo,
B. S.Tripathy, Advocates.

C O R A M:

THE HONOURABLE MR.K.P.ACHARYA, VICE-CHAIRMAN

A N D

THE HONOURABLE MR.J.C.ROY, MEMBER (ADMINISTRATIVE)

1. Whether reporters of local papers may be allowed to see the judgment ? Yes.
2. To be referred to the Reporters or not ? No.
3. Whether Their Lordships wish to see the fair copy of the judgment ? Yes.

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J U D G M E N T

K.P.ACHARYA, V.C., All the 19 applicants joined as Engine Cleaners (Class IV category) in between 1965 and 1972. They were given promotion to the post of Fireman Grade II (Class III) which was a promotional post in between 1967 and 1977. Thereafter, the applicants in between 1977 and 1987 were promoted to the post of Fireman Grade I and except applicant No.16 all others have been appointed as Diesel Assistants since 1985 on ad hoc basis. The applicants feel aggrieved by the issuance of Annexures-5 and 6. Hence, by this application Annexure-5 is sought to be quashed with a prayer for declaration that F.M.I and DDA having been borne in the same cadre and shown in

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the same seniority list ~~and~~ to be promoted to the next higher rank namely Shunter, the services of the applicants should be regularised as Diesel Assistant and be given promotion to the post of Shunters subject to elimination of unfit and furthermore, educational qualification of Matriculation should not be insisted upon and F.M.I and DDA should not be categorised into two distinct groups.

2. Before we deal with the averments in the counter it may be stated that Sarat Chandra Patnaik, Asit Kumar Swain, A.Mani Rao, Upendra Kumar Patashani and R.Ganapati Rao, Respondents 4 to 8 have come up as intervenors. According to them, they have appeared at a test for filling up of the post in the higher grade and by virtue of the restraint order passed by this Bench the results are not being published and their interests are being affected.

3. We have heard Mr.G.A.R.Dora, learned counsel for the applicants, Mr.R.C.Ratha, learned Standing Counsel for the Railways and Mr,Deepak Misra, learned counsel appearing for the intervenors.

4. In view of the long period ^{during} ~~for~~ which the applicants have discharged their services as Diesel Assistants on ad hoc basis, that itself militates against the concept of stopgap arrangement or appointment on ad hoc basis. ^{filed by Respondents 1 to 3,} In their counter, (in the last portion of paragraph 7) it is stated as follows:

" While adhering to the above procedure it is found that 94 DDAs out of the 180 officiating DDAs do not fulfil the conditions and as such they had to face reversion. Considering the above facts

and circumstances a reference was made to the Head Quarters for these 94 DDAs for relaxing age and educational qualifications. The General Manager, S.E.Rly., has been pleased to give sanction for one time relaxation of age and qualification for F.M.I and F.M.II working as DDAs on adhoc basis. "

This fact is borne out from Annexure-R/1. In view of the assertion made in paragraph 9 of the counter filed by Respondents 1 to 3 that there is one combined seniority group of DDAs and F.M.I and that the scale of pay and the avenue of promotion are identical, it is hereby admitted that they belong to the same cadre. Finally it is stated in paragraph 15 of the said counter as follows:

" That in view of the relaxation of age and educational qualification given under Annexure-R/1, it is stated that the reliefs sought by the applicants have already mitigated. "

The above quoted averments clearly show that the relief sought by the applicants have since become infructuous as the Railway Administration has already decided to give the relief as sought for. Therefore, we would direct that the decision to give all such reliefs ^(as prayed for) be given effect to and the adhoc services of the applicants be regularised and they should be considered for the next promotional post. So far as the intervenors are concerned, the stay order passed by this Bench stands vacated by the disposal of this application and therefore it is directed that the results be published and these intervenors who are found to be suitable be appointed to the posts in question.

5. Thus, this application is accordingly
by

disposed of leaving the parties to bear their own costs.

[Signature]
.....
MEMBER (ADMN.)



[Signature]
6-2-92
.....
VICE-CHAIRMAN.

Central Administrative Tribunal,
Cuttack Bench, Cuttack.
/Sarangi.