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O.A.NO. 783/1995.

ORDER DATED 16TH DAY OF SEPTEMBER, 2002.

Heard Mr. Palit, Learned Counsel for the Applicants and Mr. B. Pal, learned Senior Counsel for the Railways/Respondents and perused the records.

Shorn of unnecessary details, it would suffice to say that the Applicants are presently working as Assistant Electrical Driver. It is their case that at the time of entry into the service, the minimum qualification for the post was B.Sc ^{with Physics} Diploma ^{in Tech/Elect/Electronic Engineering}. But subsequently, vide Annexure-1, while inviting the applications for the post in which the Applicants were recruited and working, the minimum qualification had been reduced to Matric/I.T.I. It is an admitted fact that the scale of pay meant for the post was 950-1500/- (PRS). Therefore, it is the case of the Applicants that since they are better qualified, having B.Sc ^{degree} Diploma ^{in engineering} and persons recruited under Annexure-1 and thereafter, are/were Matric/ITI, they are entitled to get weightage in the matter of scale of pay having higher qualification. In the said premises, they have filed this Original Application under Section 19 of the Administrative Tribunals Act, 1985, with a prayer to direct the Respondents to give the Applicants such extra emolument based on such higher qualification possessed by the Applicants.

Respondents have filed their counter interalia stating that the Railway Board is the competent body to

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O.A.No. 783/1995

to issue circulars/frame rules with regard to the mode of recruitment/qualification/age etc. and it is not a matter for the Courts/Tribunals to decide with regard to qualification for a post or the scale of pay meant for a particular post. Since the entire things had been done as per the guidance/instructions issued by the Railway Board, the action of the Respondents can not be faulted with. Moreover, it has been stated by the Respondents that if the Applicants have anything to say in the matter of pay/incentives according to the qualifications, it was well open for them to agitate their grievances before the Pay Revision Committee/Anomaly Committee and, as such, this Tribunal should not interfere in the matter of the present dispute. On the above grounds, they have objected the prayer of the Applicants.

Having heard the learned counsel for both sides, we have given our anxious consideration to the rival submissions of both sides. It is a settled law in a plethora of judicial pronouncement of different Courts that Courts/Tribunals are not ~~the~~ competent to interfere in the matter of fixation of the criteria for selection nor scales of pay attached to the post. That apart it is also settled position, which is not disputed at the Bar, that always scales are attached to the post and not for the qualification. In view of the above settled position of law we do not find any merit in this Original Application. But however, at the time of hearing, learned counsel for the Applicants submitted that liberty be given to the Applicants to make representation 4

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O.A.No. 783/1995

put forth their grievances, either for granting the prayer of the applicants or referring the matter to the Anomaly Committee, (available under the Government of India for sorting out the grievances of the employees in the present nature). Since the above submissions of the learned counsel for the Applicants are genuine, in all fairness of things, liberty is given to the Applicants to make a detailed representation to the Railway Board within a period of 15 days hence and in the event of receipt of such a representation from the Applicants, we are sure the competent authority of the Railway Board, shall do well above on the representation of the Applicants, as per the submissions made by the learned counsel for the Applicant as early as possible.

With the above observations and directions, this O.A. is disposed of. No costs.

Abdon 16/9
(B.N.SOM)
VICE-CHAIRMAN

Manoranj 16/9/2002
(MANORANJAN MOHANTY)
MEMBER (JUDICIAL)

KNM/CM.