

CENTRAL ADMINISTRATIVE TRIBUNAL,

CUTTACK BENCH, CUTTACK.

ORIGINAL APPLICATION NO. 20 OF 2000
Cuttack, this the 18th June, 2001

Ganapati Majhi and others ...

Applicants

-vrs-

Union of India and others ...

Respondents

FOR INSTRUCTIONS

1. Whether it be referred to the Reporters or not? Yes
2. Whether it be circulated to all the Benches of the Central Administrative Tribunal or not? No

(G.NARASIMHAM)
MEMBER (JUDICIAL)

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN
18.6.2001

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CORAM:

HON'BLE SHRI SOMNATH SOM, VICE-CHAIRMAN
AND
HON'BLE SHRI G.NARASIMHAM, MEMBER(JUDICIAL)

.....

1. Ganapati Majhi, aged about 31 years, son of late Satya Majhi, presently working as Sr.Goods Driver, S.E.Railway, Kantabanjhi.
2. Ghanashyam Nial, aged about 44 years, son of Nora Nial, presently working as Sr.Goods Driver, S.E.Railway, Kantabanjhi.
3. Abhiram, aged about 35 years, son of Prahallad, presently working as Sr.Goods Driver, S.E.Railway, Kantabanjhi

Applicants

Advocates for applicants - M/s A.Kanungo
S.R.Misra
B.Ro~~z~~y
M.K.Biswal

Vrs.

1. Union of India, represented through General Manager, S.E.Railway, Garden Reach, Calcutta.
2. Divisional Personnel Officer (O), S.E.Railway, Sambalpur.
3. R.N.Kishore, Goods Driver, S.E.Railway, At/PO-Kantabanjhi, Dist.Bolangir.
4. S.B.Singh, Goods Driver, S.E.Railway, At/po-Kantabanjhi, Bolangir.
5. D.K.Sahoo, Passenger Driver, S.E.Railway, At/PO-Titilagarh, Dist.Bolangir.
6. B.Natha Sahu, Passenger Driver, S.E.Railway, At/PO-Titilagarh, Dist.Bolangir.
7. B.Nanda Sahu, Passenger Driver, S.E.Railway, At/PO-Titilagarh, Dist.Bolangir.

Respondents
Advocate for respondents-M/s R.Sikdar
A.Sikdar

ORDER

SOMNATH SOM, VICE-CHAIRMAN

The three applicants have prayed for quashing the order dated 27.8.1999 promoting 9 persons including

private respondent nos.5 to 7 from the cadre of Goods Driver to Passenger Driver on the grounds indicated by them in the petition.

2. Departmental respondents have filed counter opposing the prayer of the applicant. Private respondents, though issued with notice, did not appear or file counter. No rejoinder has been filed. For the purpose of considering this petition it is not necessary to refer to all the averments made by the parties in their pleadings. We have heard Shri S.R.Mishra, the learned counsel for the petitioners and Madam R.Sikdar, the learned Railway Advocate appearing for the departmental respondents and have perused the records. The learned counsel for the petitioners has confined his submissions in support of the prayer in the OA on three points and these are discussed below.

3. It has been submitted that in the promotion order at Annexure-2 a note has been appended after the list of promoted candidates and in this it has been mentioned that R.N.Kishore and S.B.Singh, Goods Drivers (respondent nos.3 and 4 respectively) will be promoted after receipt of their service sheets from Divisional Railway Manager, Chakradharpur Division. The applicants have stated that these two persons did not appear at the selection test nor did their names appear in the list of candidates at Annexure-1 who were called to the selection test and therefore, their promotion is illegal. The departmental respondents in paragraph 4 of their counter have stated that these two respondents R.N.Kishore and S.B.Singh were Goods Drivers in Chakradharpur Division and they were

transferred to Sambalpur Division on administrative interest and have been permanently absorbed in Sambalpur Division in order dated 9.12.1998. It has been submitted by the learned Railway Advocate that the departmental respondents have inadvertently mentioned in their counter in paragraph 4 that these two persons were called to appear before the Selection Committee. But actually these two persons had cleared the test for promotion to the post of Passenger Driver in Chakradharpur Division and as per the departmental rules they were not to appear at the test again and on the basis of acquisition of eligibility for promotion earlier that they have been promoted. In view of this, we hold that this contention of the applicants is without any merit and the same is rejected.

4. The second ground urged by the applicants is that private respondent nos. 5, 6 and 7 were admittedly issued with promotion order on 27.8.1999 at Annexure-2. But in the order dated 30.6.1999 at Annexure-3 it has been mentioned that these three Drivers are transferred to Kantabanjhi on promotion to the post of Passenger Driver and it has been directed to relieve them immediately. The applicants have stated that as the promotion order came on 27.8.1999 and this order directing their relief has been issued on 30.6.1999, it is clear that these persons were promoted even before the order at Annexure-2 was issued. The departmental respondents have mentioned in paragraph 9

of the counter and this has not been denied by the applicants by filing any rejoinder that in the control message at Annexure-3 private respondent nos. 5 to 7 were transferred to Kantabanjhi in their existing capacity and grade. Only inadvertently it was mentioned that they have been transferred on promotion, but actually they have not been promoted with effect from 30.6.1999. In view of the fact that these private respondents got their promotion only after 27.8.1999, this contention of the applicants is without any merit.

5. The third point mentioned by the applicants is that applicant no.1 belongs to a reserve category and according to the instructions of the Railway Board, before selection test, pre-selection coaching should have been imparted to him, but this has not been done. The departmental respondents in their counter have mentioned that applicant no.1 was promoted to the post of Goods Driver in 1995 and prior to this promotion, he was sent to the training for Driver's Promotional Course Training. He also went for Refresher's Course in February-March 1997. He was also given Ambulance Training and Safety Training Course. The departmental respondents have admitted that applicant no.1 could not be withdrawn from his regular duty for being imparted pre-selection coaching before his selection test because of extreme shortage of Driver. The provision for pre-selection coaching is naturally subject to operational requirement of running trains. Moreover, applicant no.1 had willingly appeared at the selection test and had not raised any objection on this point earlier and therefore, he cannot be allowed to raise this point at this stage. In view of this, this contention of the applicants is also rejected.

Jom

6. In the result, therefore, we hold that the grounds on which the applicants have prayed for quashing the promotion order (Annexure-2) are without any merit. The Original Application is accordingly rejected. No costs.


(G.NARASIMHAM)

MEMBER (JUDICIAL)


(SOMNATH SOM)
18.6.2001
VICE-CHAIRMAN

18th June 2001/AN/PS