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CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK

ORIGINAL APPLICATION NO. 302 OF 2008

Cuttack this the 27th day of April, 2010

CORAM:

HON'BLE SHRI B.V.RAO, JUDICIAL MEMBER
AND
HON'BLE SHRI C.R.MOHAPATRA, ADMINISTRATIVE MEMBER
...

1. Prasanta Kumar Bisoi, aged about 33 years, Son of Debahari Bisoi
2. Pradip Kumar Gupta, aged about 35 years, Son of K.N.Gupta
3. Sanjay Kumar Bal, aged about 36 years, Son of P.C.Bal
4. Sudarsan Tanti, aged about 34 years, Son of Banabihari Tanti

All are working as Khalasi Helper in the Office of Senior Divisional Electrical Engineer, TRS, South Eastern Railway, Bondamunda, Dist-Sundargarh, Orissa

...Applicants:

By the Advocates:M/s.D.N.Lenka, S.Patra & N.R.Lenka

-VERSUS-

1. Union of India represented through the Chairman, Railway Board, Indian Railway, New Delhi
2. General Manager, South Eastern Railway, Garden Reach, Kokata, West Bengal
3. Divisional Railway, Manager, South Eastern Railway, Chakradharpur Division, At/PO-Chakradharpur, Dist-Singhbhum, Jharkhand
4. Sr.Divisional Electrical Engineer (TRS), Electric Locoshed, Bondamunda, Dist-Sundargarh, Orissa

...Respondents

By the Advocates: Mr.T.Rath(Res.No.4)

ORDER

HON'BLE SHRI B.V.RAO, JUDICIAL MEMBER:

1. Four applicants having a common cause of action have joined together in this Original Application. At present they are working as Khalasi Helper under the Respondent-Railways. Their grievance is that although they fulfill the eligibility criteria as prescribed in Clause-6(ii) of the Circular dated 9.1.1998 for being promoted to the grade of Technician, Gr.III, the Respondents are not considering their claim notwithstanding the fact that in the said circular it has been categorically stipulated that 60% vacancies earmarked for direct recruitment quota



which accrued w.e.f. 2.9.1998 onwards are required to be filled up for serving employees on roll as on 1.9.1998 and for a period upto 31.8.2000 or till such time as no such employee eligible as on 1.9.1998 remains awaiting placement in the grade, whichever is earlier, as per Railway Board's letter dated 2.2.1998. Further, it has been submitted that as per Railway Board's letter dated 7.8.2006(Annexure-A/3) a decision has been taken to the effect that Helpers in Workshops, Divisions, Diesel/Electric Loco/EMU Sheds and Pus are required to be considered for promotion as Technician, Gr.III by diverting the respective direct recruitment quota vacancies and adding the same to promotion quota as a one time measure upto 31.7.2007 subject to their passing the trade test. It is the case of the applicants that although the relevant instructions of the Railways speak of half yearly trade test, the Respondents are neither conducting any trade test nor promoting them in accordance with the Railway Boards's letter dated 31.7.2007, as referred to above. In the circumstance, being aggrieved by the order dated 24.4.2998(Annexure-A/7) issued by the Respondent-Railways in compliance with the order of this Tribunal in O.A.No.32/08, rejecting the prayer of the applicants, this Original Application has been filed by the applicants with the following prayer.

- e. To quash the order dated 24.4.2008 under Annexure-A/7.
- f. To direct the Respondents to promote the applicants to the post of Grade-III Technician from the date as due and admissible with all financial and consequential benefits.
- g. To direct the Respondents to promote the applicants in terms of the Circular dated 7.8.2006 issued by the Ministry of Railway Board and as has been done in case of Tata Nagar Division.
- h. Any other relief(s) as deemed fit and proper in the facts and circumstances of the case.

2. Per contra, the Respondent-Railways have filed their counter. Though they have not disputed the factual aspect of the matter, it has been submitted that according to Railway Board's instructions steps were taken to fill up the vacant post of Technician, Gr.III by diverting the direct recruitment quota vacancies to promotion quota as a one time measure subject to the condition that vacancies accruing after 31.7.2007 would be filled up strictly as

per the prescribed procedure prevailing earlier. According to Respondents vacancies available after the cut off date cannot be extended to the applicants. It has further been submitted that as against 60% direct recruitment RRB quota only 62 posts (UR-33, OBC-16, SC-09 and ST-04) were available under the Division out of which 56 persons (UR-29, OBC-15, SC-09 and ST-3) were on the roll by that particular date. Therefore, from the direct recruitment quota only 6 posts were made available for promotion. In addition that as per the decision, 5 vacancies (UR-2, OBC-1, SC-1 and ST-1) in the higher grade also were added with RRB quota which worked out to 11 within the cut off date, i.e., 31.7.2007 and accordingly, eligible persons were considered for promotion against those vacancies by conducting selection. Finally, it has been submitted that the present applicants could not be promoted to the post of Gr.III, Technician due to non availability of vacancies. With these submissions, the Respondents have prayed that the O.A. being devoid of merit is liable to be dismissed.

3. We have heard the learned counsel for the parties and perused the materials on record. Since it is not the case of the applicants that despite there being vacancies existed within the cut off date they were not considered and/or selected to the post in question, in our considered view, the O.A. lacks in merit and is accordingly dismissed. No costs.


(C.R. MOHAPATRA)
ADMINISTRATIVE MEMBER


(B.V. RAO)
JUDICIAL MEMBER