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O.A. No. 106 of 2009

Order dated: 23.03.2009

CORAM:

Hon'ble Mr. Justice K. Thankappan, Member (J)

M.A. 157/09, filed by the applicants to prosecute this case jointly, is allowed.

2. The O.A. has been filed by seven applicants for direction to be issued to the Respondents to complete the selection for filling up of 11 posts of Private Secretaries in the East Coast Railways. The applicants, though have approached this Tribunal with the above prayer, are having an apprehension that the above 11 posts now earmarked for filling up by promotion from the employees coming under the feeder cadre having the pay scale of Rs. 5000-8000/- will be reduced if Annexure-A/9 series letters dated 10.03.2009 is implemented by the Railway Board. If so, the promotion avenues of the applicants will be affected.

3. This Tribunal heard Mr. Achintya Das, Ld. Counsel appearing for the applicant and Mr. S.K.Ojha, Ld. Standing Counsel appearing for the Respondents on notice and had perused the documents produced.

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4. Admittedly, the posts of Private Secretaries, now earmarked for filling up, was only by a method of promotion from the feeder category having the qualification and having the pay scale as prescribed under Railway's Letter Nos. EcoR/Pers/Gaz/Pvt.Secy-I(ad-hoc)/Selection dated 23.04.2008 and EcoR/Pers/Gaz/Pvt.Secy-I(ad-hoc)/Selection dated 19.03.2008 (Annexure-A/5 and A/6 respectively). Apart from that, on the basis of eligibility criteria mentioned in the above letters, a list of 33 candidates coming under the feeder category, including the names of the applicants, has been prepared as per the provisional list of willing and eligible candidates prepared by the Railway Board on 12.03.2008. It is also to be seen that as per Annexure-A/1 and A/2 orders of the Railway Board, by which inter-railway transfer and inter-divisional transfer has been regularized, only a transfer can be affected by the method and restrictions contained therein. Hence, any transfer of Private Secretaries or such employees coming under any of the categories like that of the persons named in Annexure-A/9 series would be against the provisions of Annexure-A/1 and A/2 orders of the Railway Board.

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5. In the above circumstances, this Tribunal is of the view that though the apprehension of the applicants is out of place at this stage, as the above letters have not been acted upon by the Railways, however, as per the provisional list prepared to fill up the vacancy of 11 posts of Private Secretaries and that selection or promotion is yet to be completed, the applicants are well justified in approaching this Tribunal to have a direction to the Respondent to complete the selection process or filling up the post earmarked for promotion from the feeder category at the earliest. Further, it is also to be noted that even if any Private Secretary or officer has been transferred in the light of Annexure-A/9 series, his transfer may not be a reason for affecting the seniority of the candidates who are yet to be selected or promoted to the post of Private Secretaries. Hence, this Tribunal is of the view that this O.A. can be disposed of at this admission stage on the following directions:

- (a) As the provisional list for promotion to the post of Private Secretary has been already completed and 11 posts were earmarked to be filled up by promotion, it is only proper for the Respondents to take steps to complete that selection.

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(b) Even if any order has been passed by the Railway Board as a result of Annexure-A/9 series, such transfer or filling up of the posts of Private Secretaries shall not affect the seniority of the candidates who are to be selected or appointed as per the list now prepared as per Annexure-A/5 and A/6.

6. Ordered accordingly.
7. With the above observation and direction, the O.A. is disposed of without any order as to costs.
8. A copy of this order be given to the Ld. Counsel appearing for either side on usual fee and the applicants are directed to give a copy of the O.A. with all documents to Respondent No.2 directly for information.

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MEMBER (J)

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