

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

O.A. No. 25 of 1996

Present : Hon'ble Mr. Justice A.K. Chatterjee, Vice-Chairman
Hon'ble Mr. M.S. Mukherjee, Administrative Member

TARUN BASU & ORS.

-vs-

UNION OF INDIA & ORS.

For applicants : Mr. T.N. Bandopadhyay, counsel
Mr. B.C. Sinha, counsel

For respondents : Ms. B. Ray, counsel

Heard on : 20.9.1996

Order on : 28-11-96
19.11.1996
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O R D E R

A.K. Chatterjee, VC

Stated briefly, these five petitioners were engaged as Act Apprentices in different trades in Ticket Printing Press, South Eastern Railway, Garden Reach, Calcutta and successfully completed the same and ultimately passed the All India Trade Test held in May, 1992 and were awarded National Apprenticeship Certificate by the National Council for Vocational Training. They contend that as per extant rules, such Apprentices are normally entitled to be appointed against 25% vacancies in the direct quota of grade-C category posts in respective trade, though the administration has a discretion to offer them appointment in Grade-D category subject to their option. The petitioners have duly exercised such option but no appointment has been given to them inspite of availability of vacancies. On the other hand, they have been

informed by a letter dt.29.12.95 that open market recruitment in Grade-D category cannot be resorted to without Board's approval and there is no provision for direct appointment of Course Completed Act Apprentices against Group-D vacancy in the railway. The instant application has, therefore, been filed, inter alia, to quash this letter and for a direction upon the respondents to appoint the petitioners in Group-D post forthwith.

2. The respondents in their counter contend, inter alia, that there is no provision in the Apprenticeship Act, which obliged the respondents to offer any appointment to the petitioners and they have no justiciable rights to be appointed to any post whether in Group-C or Group-D, nor there is any rule for their appointment against 25% of vacancy as contended by the petitioners.


3. We have heard the Ld.Counsel for both the parties and perused the records before us.


4. The petitioners are unable to show any rule or order under which they have to be appointed to any post in Group-C or Group-D category. However, they rely heavily on the decision of this Bench in O.A.649/92, which was brought by some other candidates, who had also qualified in the All-India Trade Test along with the petitioners and a direction was given to the respondents on 30.3.94 that the railways should consider the case of employment of those applicants subject to availability of vacancies, if they are otherwise fit. In fact, those applicants were eventually appointed as Khalasis after a petition for contempt was filed. In the said judgment, it has been specifically stated that the applicants do not have any legal right for appointment, which could be enforced through legal process. However, inspite of it, the direction as stated above, was given apparent because a view was taken

that not only legality but also fairness should play an important role. However, it is perfectly clear that the judgment did not and indeed could not give any direction for appointment but also directed the respondents to consider the case of employment of the applicants subject to availability of vacancies and their fitness. The respondents have stated in their letter dt. 29.12.95 that appointment of the applicants of O.A. 649/92 was approved by the Railway Board as a special case. However, we are of the considered opinion that the present petitioners, all of whom stand on exactly the same footing, cannot be treated differently. In fact, other things remaining equal, there is no reason why they should not be given preference in the matter of appointment by reason of their apprenticeship training.

5. We, therefore, dispose of the application with a direction upon the respondents to consider within three months from the date of communication of this order the case of the petitioners for appointment to Group-D category post subject to availability of vacancies and their fitness along with other eligible candidates but should be given preference over other candidates, who may not have National Apprenticeship Certificate and shall not be disqualified as age-barred.

6. No order is made as to costs.


(M.S. Mukherjee)
Member (A)


A.K. Chatterjee)
Vice-Chairman