

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

No.OA.1451 of 96

Present : Hon'ble Mr.S.K.Ghosal, Administrative Member

Hon'ble Mr. P.C. Kannan, Judicial Member

1. Brindaban Seth
2. Soumen Kumar Bhattacharjee
3. Sudip Kumar Nath
4. Monohor Manna
5. Swapan Kumar Moitra
6. Ashis Samaddar
7. Uttam Chandra Dey
8. Bipul Kumar Maity
9. Arindam Das

- All of them working for gain as Chargeman-B/A in Jamalpur Railway Workshop in different Trades under Eastern Railway; detailed service particulars of them has been shown in Annexure-A hereof.

... Applicants

-Versus-

1. Union of India service through the General Manager, Eastern Railway, Fairlie Place, Cal-1.
2. The General Manager, Eastern Railway, Fairlie Place, Calcutta-1.
3. The Chief Personnel Officer TR), Eastern Railway, Fairlie Place, Cal-1.
4. The Chief Mechanical Engineer, Eastern Railway, Fairlie Place, Cal-1.

... Respondents

For the applicant(s) : Mr. Samir Ghosh, counsel

For the respondents : Mr. R.K. De, counsel

Heard on : 9.5.2000

Order on: 9.5.2000

O R D E R

S.K.Ghosal. A.M.:-

The applicants, who belong to the Category of Chargeman-B/A

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in Jamalpur Railway Workshop in different Trades are aggrieved by the ^{inaction by} ~~communication~~ on the part of the respondents in following a proper procedure for their placement in the Workshops for which they ^{have} ~~are~~ opted in terms of their Seniority at the place they are now working. The applicants have specifically sought ^{the} quashing of the ^{the} ~~modification~~ of the Scheme called Decentralisation of certain categories of technical personnel ordered by the Chief Personnel Officer (IR), Eastern Railway, Calcutta dated 7.2.1996 (Seen at Annexure 'C' of the O.A.). Their grievance is that in the Original Scheme of Decentralisation, which was brought into operation under the order dated 21.2.91 passed by the Chief Personnel Officer, Eastern Railway, Calcutta, ⁴⁹ ~~there~~ was no stipulation about the application of a formula called 1:1, which has been incorporated specifically in the ^{imposed 49} ~~main~~ modification at Annexure 'C' of the O.A. The applicants have sought the following reliefs :-

- (i) Leave be granted to the applicants to file this joint application in terms of Rule 4(5)(a) of the Central Administrative Procedure (Rules), 1987;
- (ii) to direct the respondents to cancel, withdraw and/or rescind the order dated 28.10.96 clarifying the decentralisation scheme of 1996 as contained in Annexure -I hereof;
- (iii) to direct the respondents to implement the decentralisation policy in terms of Memo. dated 21.2.91 as contained in Annexure -B hereof which was the decentralisation policy of 1991;
- (iv) to declare that the decentralisation policy adopted by the respondents in the year 1995/1996 is nullity in the eye of law and specifically in view of the clarification given by them in terms of Memo. dated 28.10.96 as contained in Annexure -I hereof;
- (v) to direct the respondents to make Seniority list workshopwise/grade-wise in terms of options exercised by the applicants and transfer them in the opted place
- (vi) to direct the respondents to hold selection test for

promotion to the post of Chargeman-A/Dy.S.S. upon making of such seniority list workshopwise/gradewise and give promotion to the applicants;

(vii) to direct the respondents to deal with and/or dispose of the representations of the applicants as contained in Annexure-F & H hereof in their correct perspective.

(viii) to direct the respondents to produce the entire records of the case before the Hon'ble Tribunal for adjudication of the points at issue;

(ix) And to pass such further order or orders as to this Hon'ble Tribunal deems fit and proper."

Essentially their prayer is for a direction to the respondents to ensure that the original Decentralisation Scheme as per the contents of the communication at Annexure 'B' dated 21.2.1991 is implemented and for a declaration that the ^{as} modification of that Scheme under the Order dated 7.2.1996 (Seen at Annexure 'C' of the OA) should be held as null and void. The applicants have also ventilated their grievance that the respondents have failed to maintain the list of optees according to their Seniority at Jamalpur Workshop and further that the respondents should ^{have} held the selection test for promotion to the post of Chargeman A/Dy.S.S. after preparing such a Seniority List Workshopwise/Gradewise and give ^{as} promotion to the applicants. In our considered view the last relief does not follow directly from the ^{main} reliefs sought. It is for the simple reason that till the applicants as optees for other Workshops are accommodated at those Workshops and are brought on their Roll they cannot be treated as Workers ^{because} on the Seniority List of the latter Workshop and be declared as eligible for appearing at the test for promotion to higher post.

2. The applicants are thus essentially aggrieved by the failure on the part of the respondents to prepare and notify the Tradewise Seniority List of the applicants as optees for other

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Workshops and also the similar failure on the part of the respondents to order their placement in the Workshops, for which they have opted, ^{based on their positions} ~~not~~ on their ~~applications~~ in such Seniority List.

3. The respondents on the other hand have clarified specifically in Paragraph 15 as follows :-

" Options will be considered as per the seniority of the optees. The applicants have been called to appear at the suitability test/selection for next higher grades with clear instructions that 'the candidates who have submitted their options for KPA, if appear in the suitability/selection test, their seniority will be maintained at JMP Workshops'."

Further in the same Paragraph of the reply statement preceeding the statement quoted above appears the following assertion :-

" The option of the optees considered on 1:1 basis, will be interpolated in the seniority list of the workshops in which they opt. The option which cannot be covered by the 1:1 principle will not be considered and the optees will be **advised suitably**."

Since we ^{were} ~~are~~ not very clear in our understanding of the adoption of the principle of 1:1 in this specific context, we requested the ld. counsel for the respondents to clarify as to whether on ^{the} account of the adoption of the principle, the rights, which ~~are~~ ^{have} accrued to the applicants under the Decentralisation Scheme, were likely to be affected adversely. We must observe that a clear statement about the true import of the principle of 1:1 is not available in the reply submitted by the respondents. Nevertheless the ld. counsel for the respondents has clarified that the procedure which is being followed by the respondents is to prepare a Seniority List of the optees gradewise in the Workshop in which they have been working and ^{then} ~~also~~ to order their placement in the Workshop for which they have opted ^{based on} ~~not~~ entirely on their position in the Seniority List. He has further clarified that

as envisaged in the Original Scheme of Decentralisation the actual placement would obviously be determined on the concurrence and availability of the vacancies ^{as of the workshops} for which option has been exercised.

4. The Id. counsel for the applicants has stated that as long as the ^{as above} procedures are followed by the respondents and the Seniority Lists of the optees gradewise for the purpose of placement in the workshops for which option has been exercised are notified, the applicants' grievance ^{as} cannot be met and there would be no cause for seeking the reliefs prayed for here.

5. We observe that the procedure ^{as to be followed} followed by the respondents, as stated on their behalf by the Id. counsel for the respondents, viz. that gradewise Seniority List of the optees have been prepared and their placement in the workshops opted for are being made in accordance with their Seniority are accepted on behalf of the applicants as an effective redressal of their grievance ventilated in this O.A.

6. In the light of this averment made on behalf of the respondents we do not consider it necessary to go into the merits of the ^{as present O.A.} ~~reversed context~~ in detail. In our considered view it would be appropriate if the present O.A. is disposed of with the following directions :-

(i) The respondents shall prepare and notify ^{as} Trade-wise Seniority List of the optees for various Workshops for which they have exercised their options based on their inter-se seniority position in the Jamalpur Workshop ^{as} from which Workshop they have opted.

(ii) On notification of such Seniority List, the respondents shall make placement of the optees in those various Workshops based on the twin principles of option for a particular Workshop and the relative ^{as} Seniority ~~list~~ of the optees in the concerned Seniority List.

- (iii) The optees shall be so placed against the ⁴⁹~~present~~ ⁴⁹~~the~~ vacancies available and in the event of occurrence of vacancies in future.

7. For the first two directions given by us above the respondents are allowed 3(three) months' time for implementation from the date of receipt of a copy of this order. No costs.

P.C. Kannan

P.C.Kannan
MEMBER(J)

S.K. Ghosal

S.K.Ghosal
MEMBER(A)

a.m.