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CENTRAL ADMINISTRATIVE TRIBUNAL  
JODHPUR BENCH, JODHPUR.

Date of Order : 29.6.2001

Original Application No. 348/1995.

1. Shri Heer Nath S/o Shri Jeet Nath Goswami, aged about 27 years, Resident of Sector-21, House No. 703, Chopasani Housing Board, Jodhpur at present employed on the post of Safaiwala under Dy. C. M. E. Railway workshop, Northern Railway, Jodhpur.
2. Shri Ramesh Kumar S/o Sh. Jawahar Lal, aged about 35 years, Resident of Harizen Basti, Behind Police Chowki, Masooria, at present employed on the post of Safaiwala under Dy. C. M. E. Railway workshop, Northern Railway, Jodhpur.

APPLICANTS ....

VERSUS

1. Union of India through General Manager, Northern Railway, Baroda House, New Delhi.
2. The Chief Mechanical Engineer, Baroda House, Northern Railway, New Delhi.
3. Deputy Chief Mechanical Engineer (workshop), Northern Railway, Jodhpur.
4. Shop Superintendent, Northern Railway Workshop, Jodhpur.

RESPONDENTS ....

Mr. J. K. Kaushik, Adv. brief holder for  
Mr. J. K. Mishra, counsel for the applicants.  
Mr. S. S. Vyas, counsel for the respondents.

CORAM

Hon'ble Mr. Justice B. S. Raikote, Vice Chairman.  
Hon'ble Mr. Gopal Singh, Administrative Member.

ORDER

( per Hon'ble Mr. Gopal Singh )

In this application under Section 19 of the Administrative Tribunals Act, 1985, applicants Heer Nath and Ramesh Kumar have prayed for a direction to the respondents to include the category of Safaiwala in the eligible categories in notice dated 17.08.1995 (Annexure A-1) for appearing in selection/

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examination for the post of Clerk under 40% promotional quota, scheduled to be held on 11.09.1995. It has also been prayed that the respondents be directed to allow the applicants to appear in the said examination at par with other Group-D employees.

2. In terms of our order dated 30.08.1995, the respondents were directed to permit the applicants to appear in the examination scheduled to be held on 11.09.1995 provisionally provided, they are otherwise eligible. Further, when it was brought to our notice that, though the applicants were declared successful in the written examination, they were not called for interview on the ground that the Tribunal had permitted the applicants to appear in the written examination, directions were issued to the respondents vide our order dated 23.03.2001 for calling both the applicants for viva-voce test as per their result of written examination. The respondents were also directed to produce before the Tribunal, the final result in respect of both the applicants. The final result of both the applicants were produced before the Tribunal on 15.05.2001 and it was found that both the applicants were declared successful in the examination.

3. The case of the applicants is that they were appointed as Safaiwala under respondent no. 4 in the year 1989. Respondent No. 3 invited applications from certain classes of Group-D employees vide notice dated 17.08.1995 (Annexure A-1) for appearing in the Selection/Examination for the post of Clerk to be filled under 40% promotional quota. The category of

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Safaiwala has been excluded from the categories, the employees of which have been allowed to apply for the examination. Applicants contention is that as per the relevant Rules in the Railway Establishment Manual <sup>all</sup> Categories of Class-IV employees are eligible for promotion to the post of Clerk provided, the employees have completed 3 years of continuous service and therefore, exclusion of categories of Safaiwala in the notice of Annexure A-1 is against the Rules. Applicants have also stated that when a similar notice was issued in the year 1992, the category of Safaiwala was included therein as the eligible category. Hence this application.

4. In the counter, it has been stated by the respondents that the category of Safaiwala has a different channel of promotion to Semi-Skilled grades in accordance with Para 186 of REM Vol.I and as such they cannot be permitted to appear in the selection for the post of Clerk. It has also been pointed out by the learned counsel for the respondents that in terms of Circular dated 22.09.1964, Class-IV office staff eligible for promotion to the post of Clerk/ Typist would cover only those Class-IV staff who are employed in offices and not on line. It has therefore, been contended by the respondents that the applicants are not entitled for promotion to the post of Clerk through the promotional examination. It has, therefore, been averred by the respondents that the application is devoid of any merit and is liable to be dismissed.

5. We have heard the learned counsel for the parties and perused the records of the case carefully.

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6. The respondents have pointed out that Safaiwala have a channel for promotion to semi skilled grades as per Para 186 of IREM Vol. I. We consider it appropriate to reproduce below Para 186 of IREM as under : -

" 186. Promotion of Safaiwalas or Sanitary cleaners in other Departments. - In departments like Mechanical Engineering Transportation etc., where the cadre of Safaiwalas or Sanitary cleaners is comparatively small, such staff may be promoted to higher grades like semi-skilled grades pointsmen etc. alongwith other railway servants in the department.

Resultant vacancies of Safaiwalas or Sanitary Cleaners in these Departments should be filled by drawing men from their cadre from the Medical/Civil Engg. Deptt. as the case may be. "

7. Reading of this provision would make it clear that this provides an additional channel of promotion for Safaiwala in departments like Mechanical Engineering, Transportation etc. where cadre of Safaiwala or Sanitary cleaner is comparatively small. This provision however does not exclude the category of Safaiwala for promotion to the clerical cadre in terms of Para 188 and 189 of IREM Vol. I. It is also seen from notice dated 17.08.1995 (Annexure A-1) that various categories like, Ronie Operator, Daftari, Record Keeper, Jamedar, Peon, Frash, Paniwala, Mali, Cycle Sawar, Shop Messenger have been made eligible to apply for the examination for the post of Clerk under 40% promotional quota. While Frash, Pani wala, Mali etc. have been made eligible for the said selection, we do not see any reason why the category of Safaiwala has been excluded from the eligibility list. As has been pointed out above, Para 186 of

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IREM Vol. I, only provides for a special promotional avenue for Safaiwalas working in departments like Mechanical Engineering, Transportation etc., where their number is comparatively small. This does not exclude the category of Safaiwala from the classification of Group-D employees, promotion of which is provided under Para 188 and 189. It is also not the case of the respondents that the applicants are not working in the office so as to be excluded in terms of circular dated 22.09.1964. Even the classification done in this circular as persons employed in office and persons employed on line is discriminatory and does not serve any purpose. Moreover, this clarification has not become part of the Rules so far. As such the respondents cannot exclude the category of Safaiwala from the category of Group-D employees for the purpose of further promotion. It is also pointed out that the applicants are working in the Railway workshop at Jodhpur and other Group-D employees working in that workshop were made eligible to apply for the said examination. It is thus, a clear case of discrimination and cannot be permitted.

8. In terms of our earlier order dated 30.08.1995 and 23.03.2001, the applicants had already appeared in the said selection and have been declared successful. We see no reason why applicants should not be empanelled for the post of Clerk alongwith other successful candidates and promoted as per their turn according to their position in the Panel.

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9. In the light of the above discussion, we find much merit in this application and the same deserves to be allowed. Accordingly, we pass the order as under :-

" O.A. is allowed. The category of Safai-wala would be treated as eligible category for promotion to the post of clerk under 40% promotional quota. Both the applicants having been declared successful in the selection held in pursuance to notice dated 17.08.1995, be empanelled and promoted as clerk within a period of 3 months from the date of receipt of a copy of this order. The applicants would be entitled to notional promotion as Clerk from the date, other empanelled candidates were promoted as such, as also for the notional fixation of their pay from that date. They would however not be entitled to arrears of pay and allowances from the date of notional promotion. No costs ".



Gopal Singh  
( GOPAL SINGH )  
Admin. Member

BSR  
( B. S. RAIKOTE )  
Vice Chairman

P/C