

Date of Decision: 09.9.95

OA 394/95

1. Nandpal Singh, Goods Driver in the Loco Shed, Churu, Northern Railway.
2. Ibrahim, Goods Driver in the Loco Shed, Churu, Northern Railway.
3. Abdul Razak, Goods Driver in the Loco Shed, Churu, Northern Railway.
4. Rattan Lal, Goods Driver in the Loco Shed, Ratangarh, Northern Railway.

... Applicants

Versus

1. Union of India through General Manager, Northern Railway, Baroda House, New Delhi.
2. Divisional Railway Manager, Northern Railway, Bikaner Division, Bikaner.
3. Divisional Mechanical Engineer (Power), Northern Railway, Bikaner Division, Bikaner.
4. Loco Foreman, Loco Shed Churu, Northern Railway.

... Respondents

CORAM:

HON'BLE MR.GOPAL KRISHNA, VICE CHAIRMAN

HON'BLE MR.O.P.SHARMA, ADMINISTRATIVE MEMBER

For the Applicants

... Mr.J.K.Kaushik

For the Respondents

... Mr.R.K.Soni

ORDER

PER HON'BLE MR.O.P.SHARMA, ADMINISTRATIVE MEMBER

In this application u/s 19 of the Administrative Tribunals Act, 1985, the applicants, named above, have prayed that the order dated 6.9.95 (Ann.A-1), by which their names from the panel of Goods Driver stand deleted, may be quashed with all consequential benefits including the benefit available under the restructuring scheme.

2. The applicants have been working on the post of Goods Driver on ad hoc basis. They appeared in the regular selection for the post of Goods Driver and on the basis of the result of the written examination and viva voce, their names were placed in the panel Ann.A-2 dated 7.6.95. However, in a subsequent panel Ann.A-1 dated 6.9.95, the names of the applicants were deleted on the ground that as a result of a further screening held in terms of the General Manager, Northern Railway's instructions, communicated by letter dated 4.4.84, they were not found suitable for inclusion in the panel. (Panel Ann.A-1 has been described as provisional in nature.) The applicants were, therefore, sought to be reverted from the post of Goods Driver, appointed on ad hoc basis. However, the Tribunal passed an interim direction on 15.9.95, followed by another interim order dated 22.11.95. By the latter order, the operation of Ann.A-1 dated 6.9.95 was stayed.

The applicants have been continuing to work on the post of Goods Driver on ad hoc basis.

3. The case of the respondents is that as a result of a further screening, conducted in terms of the General Manager, Northern Railway's instructions, incorporated in Ann.R-5 dated 4.4.84, the applicants were found unsuitable for inclusion in the selection panel and, therefore, their names were deleted while drawing up panel Ann.A-1 dated 6.9.95. The case of the applicants is that under the rules no such screening, as provided in Ann.R-5, could have been conducted after the applicants had passed the selection test and their names had been included in the selection panel. The General Manager has no power to frame any rule of this nature and, therefore, the screening conducted by the respondents is illegal.

4. We have heard the learned counsel for the parties and have perused the material on record.

5. The respondents were directed to produce the records relating to the screening of the candidates in terms of Ann.R-5 dated 4.4.84. The records were produced before us and these have been perused by us. The learned counsel for the applicants stated during the arguments that apart from the legality of the screening in terms of Ann.R-5, which has been questioned by the applicants, in fact no proper screening, even as per Ann.R-5, has been conducted by the respondents. In terms of para-3 of Ann.R-5 dated 4.4.84, a screening is required to be conducted after the Drivers have passed the selection test but before they are actually given promotion and appointment on the post of Driver. The Screening Committee is to consist of three officers viz Sr.DSO/DSO, Sr.DME and Sr.DMO. A perusal of the records produced before us shows that screening which is required to be conducted by a committee of three officers, has actually not been conducted. Instead only one officer namely the DSO has screened the candidates. It is as a result of the screening of the DSO and his findings thereafter that the names of the applicants have not been included in the panel Ann.A-1 dated 6.9.95. We are of the view that there is no bar to the General Manager of the Railway prescribing certain additional requirements from the point of view of ensuring safety of the material and the passengers before promotions/appointments are given on the post of Driver. We, therefore, cannot accept the applicants' grievance regarding the General Manager not being empowered in principle to issue any such additional instructions for screening of the persons who have already been empanelled particularly when these instructions are uniformly followed in respect of all the persons who are empanelled. However, the respondents were required, in terms of Ann.R-5, to conduct a proper screening in accordance with the terms and conditions laid down in Ann.R-5. In other words, the screening should have been conducted by a

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committee consisting of three officers mentioned in para-3 of the instructions contained in Ann.R-5. The very purpose of screening prescribed vide Ann.R-5 has been defeated when it has not been conducted by a committee that has been prescribed in Ann.R-5 and also particularly when the medical officer is not included in the committee which was to screen the officials. Therefore, exclusion of the names of the applicants from the selection panel on the basis of the so called screening conducted by the respondents, which is in fact only by one officer, cannot be sustained.

6. In the circumstances of the present case, we direct that the respondents shall conduct a fresh screening, through a committee consisting of the officers mentioned in para-3 of Ann.R-5, within a period of one month from the date of receipt of a copy of this order. The screening should be conducted strictly in accordance with the instructions contained in Ann.R-5. If the applicants are found suitable on the basis of such screening, they would be entitled to inclusion of their names in Ann.A-1 dated 6.9.95. The applicants have already been continuing on the post of Goods Driver on ad hoc basis and also on the basis of the interim direction issued by the Tribunal. If the applicants are found suitable for promotion on the basis of the result of the screening to be conducted in accordance with the directions given above, the applicants shall be granted promotion to the post of Goods Driver from the date from which person junior to them has been granted promotion.

The OA stands disposed of accordingly. No order as to costs.

(O.P.SHARMA)
ADM.MEMBER

(GOPAL KRISHNA)
VICE CHAIRMAN

VK