केन्द्रीय प्रशासनिक अधिकरण (प्रक्रिया) नियमावली के नियम 22 के अन्तर्गत निःशुल्क प्रति

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH,JODHPUR

.....

(16)

Date of order : 27.3.2000

1. OA NO. 164/95
2. OA NO.165/95
3. OA NO.166/95
4. OA NO.448/95
5. OA NO.449/95
6. OA NO.451/95

1. OA NO.164/95

Umed Ali Khan S/o Shri Manno Khan aged about 46 years, R/o Aguna Mohalla Ward No. 27, Churu at present employed on the post of Shunter Sadrlpur,Northern Railway, Loco Shed.

.....Applicant.

versus

1. Union of India through the General Manager, Northern Railway, Baroda House, New Delhi.
2. The Divisional Railway Manager, Northern Railway, Bikaner Division, Bikaner.
3. The Divisional Mechanical Engineer (P), Northern Railway, Bikaner Division, Bikaner.
4. Poonam Chand S/o Shri Bhai Chand, Shunter under Loco Foreman, Locoshed, Sadulpur, Northern Railway.

.....Respondents.,

2. O.A.NO.165/95

Satish Kumar S/o Shri Prakashan Nand Sharma, aged about 47 years, R/o Quarter No. T 42 B, Railway Colony, Churu, at present employed on the post of Shunter, Loco Shed, Churu, under Loco Foreman, Churu, Northern Railway. Bikaner Division, Bikaner.

.....Appliant.

versus

1. Union of India through the General Manager, Northern Railway, Baroda House, New Delhi.
2. The Divisional Railway Manager, Northern Railway, Bikaner Division, Bikaner.

3. The Divisional Mechanical Engineer (P), Northern Railway, Bikaner Division, Bikaner.

4. Shri Mohd.Anwar Gaur, Driver Grade 'C', under Loco Foreman, Churu.

.....Respondents.

3. O.A.NO.166/95

Nizammudden (M), S/o Shri Mohd.Hussain, aged about 44 years, R/o Ward No. 19 C/o Ahmed Khan Kayamkhani Back Lohiya College, at present employed on the post Shunter Loco Shed, Churu under N/Rly, Bikaner Division, Bikaner.

.....Applicant.

versus

1. Union of India through the General Manager, Northern Railway, Baroda House, New Delhi.

2. The Divisional Railway Manager, Northern Railway, Bikaner Division, Bikaner.

3. The Divisional Mechanical Engineer (P), Northern Railway, Bikaner Division, Bikaner.

4. Shri Poonam Chand S/o Shri MailLal, Shunter, Under Loco Foreman, Sadulpur N/Rly.

.....Respondents.

4. O.A.NO.448/95

Abdul Majid S/o Shri Mehboob Ali Khan aged about 47 years, R/o C/o Alabdi Khan Driver Ki Havili, Near Shanti Palace, Churu, at present employed on the post of Driver, Goods, under Loco Foreman, Locoshed, Churu, N/Rly.

.....Applicant.

versus

1. Union of India through the General Manager, Northern Railway, Baroda House, New Delhi.

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2. The Divisional Personnel Officer, Northern Railway, Bikaner Division, Bikaner.

3. The Divisional Mechanical Engineer (P), Northern Railway, Bikaner Division, Bikaner.

4. Shri Maden Singh Driver, Goods, Under Loco Foreman, Locoshed, Churu, Northern Railway.

.....Respondents.

5. O.A.NO.449/95

Chhotey Lal S/o Shri Bhagwan Das aged about 46 years, R/o Railway Quarter No. L 15 B, Railway Ghoom Chakkar, Rattangarh, Distt.Churu, at present employed on the post of Driver Goods, Rattangarh, N/Rly.

.....Applicant.

versus

1. Union of India through the General Manager, Northern Railway, Baroda House, New Delhi.

2. The Divisional Personnel Officer, Northern Railway, Bikaner Division, Bikaner.

3. The Divisional Mechanical Engineer (P), Northern Railway, Bikaner Division, Bikaner.

4. Shri Managilal, Driver Goods, Under Loco Foreman, Loco Shed, Rattangarh, N/Rly.

.....Respondents.

6. O.A.NO.451/95

Mohinuddin S/o Shri Bhonda aged about 44 years, R/o Near Railway Club, Rattangarh Station, At present employed on the post of Shunter, Locoshed, Rattangarh, Northern Railway.

.....Applicant.

versus

1. Union of India through the General Manager, Northern Railway, Baroda House, New Delhi.

2. The Divisional Personnel Officer, Northern Railway, Bikaner Division, Bikaner.

3. The Divisional Mechanical Engineer (P),Northern Railway Bikaner Division,Bikaner.

4. Nizamuddin 'P',Driver, Locoshed,Churu,N/Rly.

.....Respondents.

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CORAM :

Hon'ble Mr.Justice B.S.Raikote, Vice Chairman,

Hon'ble Mr.Gopal Singh, Administrative Member

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Mr.J.K.Kaushik, Counsel for the Applicants in all O.As.

Mr.R.K.Soni, Counsel for respondents in OA at Sl.No.1 & 2.
Mr.S.S.Vyas, Counsel for respondents in OA at Sl.No. 3 & 6.
None present for respondents in OA at Sl.No.4.
Mr.V.D.Vyas, Counsel for respondents in OA at Sl.No.5.

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ORDER

PER HON'BLE MR.JUSTICE B.S.RAIKOTE,VICE CHAIRMAN :

In all these Applications, the facts and the relief prayed for by the applicants are common, they are being disposed of by this common order.

2. Applicants in all these cases claimed to be seniors over the private respondents in the cadre of Shunters. They disputed the seniority as assigned to them in seniority list. The applicants also prayed for the consequential relief of considering their cases in restructuring of scheme.

3. The respondents filed a detailed counter stating that all the applicants were juniors to the private respondents in their respective organisations. A statement has also been given to us showing that the applicants in fact were junior to the private

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respondent in each O.A. It is also stated by the respondents that all the private respondents were considered for empanelment for the post of Fireman-I as on 1.1.84 in terms of the order of the Principal Bench of Central Administrative Tribunal passed in Ram Kumar and Others Vs. U.O.I. (O.A.No. 621/90 decided on 30.7.91) and, therefore, the private respondents in the respective application have become senior to the applicants consequent upon the implementation of the restructuring scheme.

4. After arguing the case at length, the fact that applicants were juniors to the respondents is not seriously disputed. If that is so, the order Annex.A/2 dated 23.12.94 cannot be found at fault. In this view of the matter, prima facie the applicants would not be entitled for declaration as seniors to the private respondents on the post of Shunter. Hence, the impugned order Annex.A/1 dated 24.8.94 does not call for any interference since it reflected the position as on the date of the scheme and the applicants are junior to the private respondents. In this view of the matter, the applications are liable to be dismissed.

5. However, the learned counsel for the applicants submits that applicants would be entitled to the benefits of restructuring scheme vide Board's letter No. PCIII / 91 / CRC / 1 dated 27.1.93 with effect from 1.3.93. He further submitted that as on 1.3.93

regarding the cadre the applicants were holding, they would be entitled to the benefit of the restructuring scheme. As on 1.3.93, the applicants were holding the post of Shunters and the said scheme also provides a revised pay scale to the extent of 20% of that post. He submitted that atleast this relief which they have prayed for, as a consequential relief can be granted to them. However, the learned counsel for the respondents contended that this relief is not the relief prayed for in these applications, therefore, they are not entitled for this relief also.

6. It is no doubt true that the revised restructuring scheme came into force on 27.1.93 on the basis of the scheme as we have stated above. Revised pay scale on the basis of certain percentage is provided to certain posts and the post of Shunter, is also the one contemplated in the scheme. But, it is difficult for us to decide whether the applicants would be entitled to the said revised pay scale or not. That is a matter to be gone through by the authorities separtely. Since a person who does not come within the percentage prescribed under the scheme such person would not be entitled for such consideration. In this view of the matter, we can direct the respondents to consider the case of the applicants whether they are entitled to the benefit of the restructuring scheme dated 27.1.93 and nothing more. Hence, for the reasons narrated above, we dispose of the applications as under :-

7. So far as the prayer of the applicants that they should be declared senior over the private respondent, in the respective case, is hereby rejected.

8. The respondents are directed to consider the case of the applicants under the Scheme as Shunters if they are coming within the zone of consideration and on such consideration, their cases may be disposed of under the Scheme. Each of the applicant shall make a representation within a period of one month from today and the concerned respondent shall dispose of the same within a period of three months after such application.

9. Parties are left to bear their own costs.

-Sd/-
( GOPAL SINGH )
Adm. Member

-Sd/-
( B S RAIKOTE )
Vice Chairman

प्रमाणित सही प्रतिलिपि

06-4-2000

अनुभाग अधिकारी (न्यायिक)
केन्द्रीय प्रशासनिक अधिकरण
जोधपुर

mehta

Order Complained
in OA 164/95

10/4/08

Part II and III destroyed
in my presence on 13-12-2006
under the supervision of
section officer (J) as per
order dated 23.1.2006

Section officer (Record)