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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JODHPUR BENCH,
J_O_D_H_P_U_R.

Date of Order : 27.9.2000

O.A. No. 368/1996

&

O.A. No. 111/1997

Heera Lal S/O Shri Durga Das, aged about 38 years,
R/O H.No. 221, Meenarwas behind Shitala Mandir, Gandhinagar,
Abut Road District Sirohi at present employed on the post
of Electric Khallasi in the office of Senior DME (DL)
Abu Road W/Railway.

... Applicant
(in O.A No.368/96)

vs

1. Union of India through General Manager, Western Railway, Churchgate, Bombay.

2. Divisional Railway Manager, Western Railway, Ajmer Division, Ajmer.

Shri Pukhraj, Armacher Winder Grd. II under
Sr. Electric Foreman (Diesel), Abu Road, Western Railway.

... Respondents
(in O.A No.368/96)

1. Sampat Ram S/O Shri Chothi Ram, aged 40 years,
presently working as Electric Khalasi in the office
of Senior Electric Foreman Diesel Shed, Abu Road,
W/Railway.

2. Satya Narain S/O Shri Ram Sahai, aged 40 years,
presently working as Electric Khalasi in the office
of Senior Electric Foreman Diesel Shed, Abut Road,
western Railway.

... Applicants
(in O.A. No.111/97)

vs

1. Union of India through General Manager,
western Railway, Churchgate, Bombay.

2. Divisional Railway Manager, Ajmer Division, Ajmer
western Railway.

3. Sr. Divisional Mechanical Engineer (DL) Abu Road,
western Railway.

... Respondents
(in O.A. No.111/97)

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Mr. J.K. Kaushik, Counsel for the Applicants.

Mr. S.S. Vyas, Counsel for the Respondents.

CORAM :

Hon'ble Mr. A.K. Misra, Judicial Member

Hon'ble Mr. Gopal Singh, Administrative Member

O_R_D_E_R

(PER HON'BLE MR. GOPAL SINGH)

The controversy involved as also relief sought in both these applications is the same and, therefore, both these applications are being disposed of by this single order.

2. In both these applications under Section 19 of the Administrative Tribunals Act, 1985, applicants have prayed for a direction to the respondents to promote the applicants to the post of Electric Fitter in pursuance of panel dated 14.6.1996 against the vacancies of the year 1989 with all consequential benefits. Applicant Heera Lal in O.A. No.368/91 has also prayed for quashing his reversion from the post of Armature winder vide order dated 17.8.1995 (Annexure A/1).

3. Undisputed facts of the case are that applicants while working as Khallasi with the respondent-department were selected for the post of Electric Fitter in the year 1989. This selection was challenged before the Jaipur Bench of the Central Administrative Tribunal in O.A. No.364/92 Jaswant Sharma & Ors. Vs UOI & Ors. The impugned selection was cancelled by the Tribunal vide their order dated 22.9.1994

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passed in O.A. No.864/92 giving liberty to the respondents to prepare a fresh panel according to the rules. Accordingly, the panel of the year 1989 was cancelled and the respondents initiated the process of preparing fresh panel and all these candidates who had appeared in the selection test in 1989 were declared eligible to appear in the selection test vide respondents' letter dated 27.7.1995. All the applicants appeared for the selection and on being successful were placed on the panel dated 14.6.1996. However, they have not yet been promoted on the post of Electric Fitter. Hence, this application.

4. In the counter, it has been stated by the respondents that the applicants have since been sent for training consequent upon their 'selection' as Electric Fitter vide panel dated 14.6.1996.

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

6. On being selected in the year 1989, the applicants had already undergone the requisite training and were posted as Electric Fitter. One of the applicants (Heera Lal in O.A. No.368/96) was even further promoted as Armacher Winder scale Rs.1200-1800 vide respondents order dated 13.12.94 (Annexure A/5). Consequent upon quashing the panel of 1989 in terms of order dated 22.9.1994 in O.A. No.864/92 of the Jaipur Bench of the Tribunal, the applicants stood reverted to their original post of Khalasi after 22.9.1995. As per the directions of the Tribunal the respondents prepared a fresh panel dated 14.6.1996 in lieu of the panel of 1989. In this background the applicants have prayed for promotion to the post of Electric Fitter against the vacancies of the year 1989 with all consequential benefits. In fact, the

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respondents have not come out clearly in their reply as to why these applicants cannot be treated as appointed against the posts of the year 1989. At this stage we consider it appropriate to extract below relevant portion of the order dated 22.9.94 passed in O.A. No.864/92 by the Jaipur Bench of the Tribunal :

" Looking to the hardship, we direct that the appointments so made may be continued for a period of three months only from the date of receipt of the copy give the provisional appointments afresh on the basis of the merit list/marks secured till the fresh selection are made according to the rules and the persons who are eligible are allowed to appear. Thus, the provisional appointments so given shall not be continued beyond one year. However, the respondents will be at liberty to prepare the fresh panel according to the rules and in case the panel is prepared earlier, then that panel can be enforced."

The Tribunal had permitted provisional appointment of the candidates of the panel of 1989 for a period of one year from the date of the order. Had the respondents conducted fresh selection within one year's time, applicants would have continued on the promotional post without facing reversion. It is also a fact that only those candidates who were eligible to appear in selection test in the year 1989 were declared eligible to appear in the selection held in the year 1995, panel for which was declared on 14.6.96.

7. In the light of above discussion, we are of the view that the applicants are entitled to be appointed against the posts of the year 1989 with consequential benefits like seniority etc. Promotion of Heera Lal (applicant in OA 368/96) to the post of Armacher Winder was outside the line of his normal promotion and, therefore, the learned Counsel for the applicant has not pressed this prayer. Accordingly, we do not consider it necessary to deliberate upon this claim.

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Accordingly, we pass the order as under :

The Original Applications are allowed. The applicants would be deemed to have been promoted to the post of Electric Fitter w.e.f. 14.6.1996 (date of the panel). This promotion will relate back to year 1989 for the purpose of seniority. The period from their initial appointment as Electric Fitter on the basis of 1989 panel till 22.9.95 will count for the purpose of increment for fixation of their pay in the scale of Rs.950-1500 on 14.6.96. We allow four months time to the respondents to comply with these orders.

8. Parties are left to bear their own costs.

Gopal Singh

(GOPAL SINGH)
Adm. Member.

Man
27/9/2003

(A.K. MISRA)
Judl. Member

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