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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH : JODHPUR

Date of order : 05.10.2000

O.A. No. 410/96

1. Gopal Kataria son of Shri Ram Dayal aged about 38 years resident of near Shitlamata Mandir, Abu Road, at present employed on the post of Painter Grade III T.No. 387 in Diesel Shed Abu Road, Western Railway.
2. Mehamood Khan son of Shri Imamuddin aged about 46 years resident of near Meenawas, Gandhinagar, Abu Road, Western Railway, employed on the post of Welder in Diesel Shed, Abu Road.

... Applicants.

versus



1. The Union of India through General Manager, Western Railway, Church Gate, Bombay.
2. Divisional Railway Manager, Western Railway, Ajmer Division, Ajmer.
3. Shri Mohan Lal, Tin & Copper Smith Gr.III Diesel Shed, Abu Road, Western Railway.
4. Shri Yad Ram Hammerman Gr.III, Diesel Shed, Abu Road, Western Railway.
5. Shri Kiran Kumar, Hammer Man Gr. III, Diesel Shed, Abu Road, Western Railway.

... Respondents.

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

Mr. S.S. Vyas, Counsel for the respondents Nos. 1 and 2.

None is present for other respondents.

CORAM:

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

Hon'ble Mr. Gopal Singh, Administrative Member.

: O R D E R :

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

The applicants have filed this application under Section 19 of the Administrative Tribunals Act, 1985, for a direction to modify the

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seniority list dated 07.05.96 by declaring the applicants as senior to respondents Nos. 3 to 6 and also the respondents Nos. 3 to 6 may be declared ineligible for consideration of promotion to the post of Ancillary Group 'C' Grade II with the scale of Rs. 1200-1800 as against the vacancies notified vide Annexure A/2. The applicants have also prayed for quashing promotion orders, if any, passed consequently. They have also sought a direction for consideration of their case to the post of Ancillary Group 'C' Grade II, with all consequential benefits.

2. The short question raised by the applicants is that the respondents Nos. 3, 4, 5 and 6 were not eligible for the purpose of promotion to the post of Ancillary Group 'C' Grade II. It is stated that the respondent No.3, Shri Mohan Lal, was promoted to the post of Material Chaser in the scale of Rs. 950-1500 in Group 'C', and he is having a separate channel of promotion on mechanical side and as such, he is not eligible for promotion to the Ancillary Group 'C' Grade II. The applicants have also stated that the respondents Nos. 4, 5 and 6, being Hammerman, they were not holding the feeder category for the purpose of promotion to the post of Ancillary Group 'C' Grade II. They have also stated that the private respondents are being promoted on the basis of seniority list which was not published. Their further case is that since the applicants were eligible for promotion to the post of Ancillary Group 'C' Grade II, they should have been considered for such promotion instead of considering the case of private respondents 3 to 6. Therefore, there should be an appropriate direction to the respondents to consider the case of the applicants on the posts available in Ancillary Group 'C' grade II, by setting aside the promotion, if any, made in favour of the private respondents 3 to 6.

3. By filing reply statement, the respondents Nos. 1 and 2 have denied the allegations made by the applicants. They have stated that on the basis of the joint meeting held with Western Railway Mazdoor Sangh and Western Railway Employees Union on 31.07.82, the channel of

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promotion for Hammerman has been clarified and accordingly, Annexure R/1 proceedings dated 31.07.82 have been issued. On the basis of the said proceedings, the post of Hammerman has been included in the feeder category for the purpose of promotion to Ancillary Group 'C' Grade II. They have stated that the private respondents have passed the trade test of Blacksmith cadre and also the trade test meant for Ancillary Group 'C' grade II, therefore, they have been rightly placed in the panel, for promotion to the post of Ancillary Group 'C' grade II. In the reply statement, they have also stated that a seniority list of Ancillary Group 'C' grade III was issued and it was published and according to the said seniority list, the applicants were junior to the private respondents. Since the private respondents passed the required trade test meant for Blacksmith and also the trade test of Ancillary Group 'C' grade II, they have been promoted vide Annexure R/2 to the post of Ancillary Group 'C' grade II. Therefore, there are no merits in this application and accordingly, the application is liable to be dismissed.

4. Heard the learned counsel for the parties.

5. From the pleadings and also the arguments urged on behalf of both the sides, we have to see whether the post of Hammerman is within the feeder category for the purpose of promotion to the post of Ancillary Group 'C' Grade II. The incidental issue also/raised by the applicants stating that the seniority list dated 07.05.96 requires modification.

6. By taking point No. 1, we find that the post of Hammerman was included within the feeder category for the purpose of promotion to the post of Ancillary Group 'C' Grade II on the basis of the Joint Meeting held with Western Railway Mazdoor Sangh and Western Railway Employees Union on 31.07.82, provided the persons who were Hammerman passed the necessary trade test prescribed to the post of Blacksmith. These proceedings dated 31.07.82 have not been challenged. Thus, right from the year 1982, the post of Hammerman is within the feeder category for

of the purpose /promotion to the Ancilliary Group 'C' Grade II. A provisional seniority list of Group 'C' upto 30.4.96 was issued on 07.05.96, calling for the objections from the persons affected within a period of one month from that date. It is not the case of the applicants that they filed any objections to the said provisional seniority list within one month as prescribed, ~~soxxgixinx~~ in writing. From this, it follows that ~~they were~~ they have accepted their ranking as assigned in the seniority list at Annexure A/1 dated 07.05.96. From the seniority list published for the Ancilliary Group 'C' Grade III, the private respondents Nos. 3 to 6 are at sl. No. 8 (respdent No.3), sl. No. 9 (respondent No.4), sl. No.12 (respondent No. 6) and sl. No. 13 (respondent No.5), whereas the name of the applicants are at sl. Nos. 15 and 16 respectively. From this, it follows that the applicants were junior to the private respondents. The seniority list has been prepared on the basis of the date of entry in service taking into account the passing of the trade test. By verifying the date of entry and date of passing the trade test, we found that the private respondents entry into the post in question was earlier to the applicant. Therefore, we do not find any infirmity in the seniority list even though the applicant ~~stating~~ clearly had not demonstrated that the Annexure A/1 was bad, except/that such seniority was not published. The respondents in the reply statement submitted that the seniority was published on the notice board. From Annexure A/3 dated 23.11.96, it is furhter clear that S/Sh. Yad Ram Panchi Ram, Hammarman Grade III of Ancilliary Group 'C' had to pass required trade test for the purpose of their promotion to the post of Ancilliary Group 'C' Grade II. Under Annexure A/4 dated 09.12.96, we find that S/Shri Mohanlal Bhuralal and Yad Ram Panchi Ram, private respondents Nos. 3 and 4, had passed the required trade test for the purpose of their promotion to the Ancilliary Group 'C' Grade II and accordingly, their names were placed in the panel. The respondents have filed alongwith the reply statement their promotion orders to the post of Ancilliary Group 'C' Grade II vide Annexure R/2 dated 16.12.96. From these facts, it is clear that the private respondents are senior to the

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applicants and they had passed the necessary trade test required for the purpose of promotion to the post of Ancillary Group 'C' Grade II. Therefore, ultimately they were promoted under order Annexure R/2 to the post of Ancillary Group 'C' Grade II. The applicants being juniors according to the seniority list vide Annexure A/1, to the private respondents, they do not have any right to contest the case of promotion of the private respondents to the post of Ancillary Group 'C' Grade II.

7. In this view of the matter, we do not find any merit in this application. Accordingly, we pass the order as under:-

"Application is dismissed. But in the circumstances, without costs."

Gopal Singh

(GOPAL SINGH)
Adm. Member

B.S. RAIKOTE

(B.S. RAIKOTE)
Vice Chairman

cvr.