IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JODHPUR BENCH: JODHPUR.

O.A. Nos.173/97, 174/97, 200/97 and 209/97

Date of Order:10.9.1998

(1) Suresh Kumar Sharma s/o Shri Choth Mal Sharma, at present working as Office Superintendent Gr.II in the office of Assistant Engineer, Northern Railway, Bikaner

Applicant in O.A. No.173/97

(2) Sobha Chand Sharma s/o Shri Vishwanath Sharma, at present working as Office Superintendent Gr.II in the office of Assistant Engineer, Northern Railway, Sadulpur, Bikaner Division.

Applicant in O.A. No.174/97

(3) Muni Prakash Gaur s/o Shri Siri Ram Gaur, at present working as Office Superintendent Gr.II in the office of the Engineering Branch, Divisional Rail Manager, Northern Railway, Bikaner.

Applicant in O.A. No.200/97

(4) R.P.Pathak s/o Shri R.N.Pathak, at present working as Office Superintendent Gr.II in the office of the Engineering Branch, Assistant Engineer (II), Northern Railway, Hanumangarh Junction.

Applicant in O.A. No.209/97

VERSUS

1. The Union of India, through its General Manager, Northern Railway, Baroda House, Headquarters Office, New Delhi.

2. The Divisional Railway Manager, Northern Railway, D.R.M. Office, Bikaner.

3. The Divisional Personnel Officer, Northern Railway, D.R.M. Office, Bikaner.

Respondents

Mr. S.N.Trivedi, Counsel for the applicants in all the O.As.

Mr. V.D.Vyas, Counsel for the respondents in O.A.No.173/97 & 174/97.

Mr. S.S.Vyas, Counsel for the respondents in O.A. No.200/97 & 209/97.

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

All these applications have common point of law and relief sought therein is also common and, therefore, all these applications are disposed of by this single order.

2. In these Original Applications filed under Section 19 of the Administrative Tribunals Act, 1985, applicants have prayed for setting aside the impugned orders dated 24.10.1996, 31.10.1996 and 12.6.1997. The respondents vide these orders had deleted the name of the applicants from the panel dated 11.1.1994 for the post of Office Superintendent (for short, OS) Gr.II scale 1600-2660.

3. Undisputed facts of the case are that in terms of re-structuring scheme introduced vide Railway Board's letter dated 27.1.1993, nine posts of OS were required to be filled up by promotion from the feeder cadre through modified selection procedure. One of these posts was reserved for Scheduled Tribe candidate. All the eligible employees were considered for promotion to the post of OS Gr.II. Five of these employees were working in the Construction Organisation and as such their names were not placed on the panel dated 11.1.1994 for the post of OS Gr.II, while the names of all the applicants were placed at Sl.No.5, 6, 7 & 9 of the panel dated 11.1.1994. Consequent upon representation from the officials working in Construction Organisation, the respondents vide their letter dated 24.10.1996

(10)

removed the names of three persons including the applicants, Suresh Kumar Sharma and Sobha Chand Sharma, from the said panel and vide order dated 31.10.1996 the respondents reverted applicants Suresh Kumar Sharma and Sobha Chand Sharma. On a further representation by two more employees working in Construction Organisation, the respondents removed the name of the applicants, Muni Prakash and R.P. Pathak, from the said panel vide their letter dated 12.6.1997. In terms of the panel dated 11.1.1994 all these applicants had been promoted to the post of OS Gr.II vide respondents letter dated 27.1.1994 and they have continued on the post for more than two years before their names were deleted from the panel so as to interpolate the names of the senior officials who were working with the Construction Organisation and whose names were not initially placed on the said panel.

4. Notices were issued to the respondents and they have filed their reply.

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

6. The respondents' case is that it was by mistake that the names of the officials working with the Construction Organisation were not initially included in the panel dated 11.1.1994 and it was to correct that mistake that the names of the applicants were de-panelled so as to empanel officials working in the Construction Organisation.

7. Para 4 of Railway Board's letter dated 27.1.1993 on re-structuring of certain Group C & D cadres reads as under:

"4. The existing classification of the posts covered by these restructuring orders as selection and non selection as the case may be remain unchanged. However, for the purpose of implementation of these orders. If an individual Railway servant become due for promotion to a post classified as selection post, the existing selection procedure will stand modified in such a case to the extent that the selection will be based only on scrutiny of service records and Confidential Reports without holding any written and or viva-voce test. Similarly for posts classified as non selection at the time of this restructuring the same procedure as above will be followed. Naturally under this procedure the categorisation as 'outstanding' will not figure in the panels. This modified selection procedure has been decided up on by the Ministry of Railways as a one time exception by special dispensation, in view of the numbers involved with the objective of expenditing the implementation of these orders.

4.1 Vacancies existing on 1.3.93 except direct recruitment quota and those arising on that date from this cadre restructuring including chain, resultant vacancies should be filled in the following sequence.

i) from panels approved on or before 1.3.93 and current on that date.

ii) and the balance in the manner indicated in para-4 above.

4.2 Such selections which have not been finalised by 1.3.93 should be cancelled/abandoned.

4.3 All vacancies arising from 2.3.93 will be filled by normal selection procedure."

8. It would be seen from the above provisions that the chain or resultant vacancies occuring on 1.3.1993 were also to be filled up under the re-structuring scheme. It has been averred by the applicants that the officials who were working in Construction Organisation, were working there for more than 20 years. It is also a fact that these officials working in the Construction Organisation had their lien in the Engineering Department of the Division. As on 1.3.1993 there were no prospects of these officials coming back to their parent wing.

9. There were in all 15 candidates including the senior officials working in Construction Organisation on deputation, eligible for promotion as OS Gr.II as under:

(11)

1. Shri Ram Prasad (SC) Adhoc AS/CE (Const/TKD.
2. Shri S.R. Chaubey, Hd. Clerk CE (Const) ALD.
3. Shri Ram Sumrin (SC) Adhoc AS/AEN/RTGH.
4. Shri Anil Chaudhari, Hd. Clerk CAO/C/K.Gate, Delhi.
5. Shri A.N.Saxena, -do-
6. Shri Satya Narain, Ad.AS/DRM Office/BKN.
7. Shri Ram Kumar Dochania (SC) Ad.AS/AEN/RE.
8. Shri Chhaju Ram (SC) Hd. Clerk/IOW/CKD.
9. Shri Om Prakash (SC) -do-
10. Shri Rajendra Pd. Pathak, Ad.AS/AEN-II/HMH.
11. Shri Muni Prakash, Ad.AS/Engg.Br.DRM Office/BKN.
12. Shri Suresh Chandra, Hd. Clerk, SEN (C)/Jaipur.
13. Shri Suresh Kumar -do- AEN/BKN.
14. Shri Dasrath Sharma, -do- under CPWO/MHRG.
15. Shri Sobha Chand Sharma, Ad. AS/AEN/SDLP.

10. It has been stated by the respondents that the person shown at Sl. No.9 was found unfit for promotion to the post of OS Gr.II. Further persons at Sl.No.1,2,4,5 & 12 were working in Construction Organisation. If the principle of next below rule is applied, then with the promotion of persons at Sl. No.3,6,7,8,10 & 11, persons at Sl. No.1,2,4 & 5 would get proforma promotion and similarly with the promotion of Sl. No.13, the person at Sl. No.12 would get covered under proforma promotion. Thus all the persons on deputation to Construction Organisation would get covered under next below rule for proforma promotion as OS Gr.II on 1.3.1993. It may be worthwhile to mention that many of the officials on deputation to the Construction Organisation were already working as OS Gr.II on ad hoc basis. In the circumstances, we are of the view that the persons placed on the panel dated 11.1.1994 were not required to be depanelled so as to accommodate the senior officials working in the Construction Organisation. In the eventuality of repatriation of such senior(s) to the parent department, the last person (s) officiating as OS Gr.II should have been reverted.

11. In the circumstances, we are of the view that the applications have much force and deserve to be allowed.

12. All these applications are accordingly allowed with the directions that the name of the applicants should continue on the panel dated 11.1.1994 and they should continue to enjoy their promotion to the post of OS Gr.II from the beginning and the officials on deputation to the Construction Organisation should be afforded proforma promotion as per rules.

13. Parties are left to bear their own costs.

Sd/-

(GOPAL SINGH)
MEMBER (ADMN.)

Sd/-

(A.K. MISRA)
MEMBER (JUDL.)

प्रमाणित
सत्य प्रतिलिपि
22/9/98
अनुभाग अधिकारी (न्यायिक)
केन्द्रीय प्रशासनिक अधिकरण
जोधपुर न्यायपीठ, जोधपुर

Aviator/

Recd S.N.T. 23/9/98.

Copy of order sent to Sh S.N. Trivedi Adv by Regd AD vide no. 366 dt 24/9/98
23/9/98

Part II and III destroyed in my presence on 4.11.06 under the supervision of section officer (J) as per order dated 20/12/2006

Section officer (Record)