

CENTRAL ADMINISTRATIVE TRIBUNAL  
JODHPUR BENCH : JODHPUR

Date of Order : 06.02.2002

O.A. No. 57/1998.

1. Krishan Gopal Soni son of Shri Naina Ram Soni, aged about 33 years, resident of c/o Station Superintendent Sambhalpur distt. Chittorgarh, Western Railway, at present holding the post of Station Master (designated as ASM) at Sambhalpur Distt. Chittorgarh, Western Railway.
2. Rajesh Yadav son of Shri Balvir Singh Yadav, aged about 31 years c/o Station Superintendent Berach JN Cabin Distt. Chittorgarh, at present holding the post of Station Master (designated as ASM) at Berach JN. Cabin Distt. Chittorgarh, Western Railway.
3. Vinod Kumar Pippal son of Shri Surya Pal Pippal, aged about 33 years, resident of c/o Station Superintendent Rayala Road Distt. Chittorgarh, Western Railway, at present holding the post of Station Master (designated as ASM) at Sambhalpur Distt. Chittorgarh, Western Railway.

... APPLICANTS.

v e r s u s

1. Union of India through General Manager, Western Railway, Churchgate Mumbai.
2. Divisional Railway Manager, Western Railway, Ratlam Division, Ratlam.

... RESPONDENTS.

Mr. J.K. Kaushik, counsel for the applicants.  
Mr. S.S. Vyas, counsel for the respondents

CORAM

Hon'ble Mr. Justice O.P. Garg, Vice Chairman.  
Hon'ble Mr. A.P. Nagrath, Administrative Member.

: O R D E R :  
(per Hon'ble Mr. A.P. Nagrath)

Three applicants of this OA have made a prayer for the following reliefs :-



" (i) That the impugned orders dated 8.9.97 Annexure A/1 organising selection on the basis of wrong eligibility list and order Dt.1.11/12.97 Annexure A/2, rejecting the claim of applicant for assignment due seniority on the post of Station Master Class/grade, may be declared illegal and the same may be quashed. The respondents may be directed to designate the applicants as Station Master and to prepare separate senioritylist for their class/grade as per rules and then prepare eligibility list for selection/promotion to the post of Station Supdt. and allow all consequential benefits. The subsequent order, if any, passed during the tendency of this may be ordered to be modified accordingly.

(ii) That any other direction, reliefs or orders may be passed in favour of the applicant which may be deemed just and proper under the facts and circumstances of this case.

(iii) That the cost of this application may be awarded."



2. Facts, briefly stated, are that the applicants were recruited as Traffic Apprentice in the year 1994. Traffic Apprentices, so recruited are allotted to different disciplines of the traffic department of Railways like the Control organisation, Yard organisation or the Station organisation. The applicants were assigned to the category of Station Masters/Assistant Station Master (SM/ASM) and after successfully completing the prescribed training course, were posted in the grade of Rs. 1600-2660 at the stations indicated against their names in the order dated 30.04.1996 (Annexure A-3). The respondents initiated a selectio for the post

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of Station Superintendent in the scale of Rs. 2000-3200 vide letter dated 08.09.1997(Annexure A-1). The names of the applicants also find a place in the eligibility list but they were placed below the Assistant Station Masters(ASM) in the pay scale of Rs. 1600-2660. They are aggrieved by their placement in the category of ASM as their plea is that they were recruited ~~as~~ only as SMs in the scale of Rs. 1600-2660 and were required to be placed only in the category of SMs and above all the ASMs in the grade of Rs. 1600-2660. The selection for filling up the post of Station Superintendent was held on 17.02.1998 onwards and as per the orders passed by this Tribunal on 11.3.1998 on the prayer of interim relief, the result of the said selection is subject to the outcome of this OA.

3. The respondents have resisted the relief claimed by the applicants on the ground that the applicants were recruited only as ASMs in the grade of Rs. 1600-2660 and they have been rightly assigned their seniority in the category of ASMs. In this context, the respondents have referred to the letter of appointment dt. 30.04.1996(Annexure A-3) to contend that the applicants had accepted their appointment as ASMs and they are now estopped from making a claim for being included in the category of SMs. It has been explained by the respondents that the seniority list of SMs in the scale of Rs. 1600-2660 and ASMs in the scale of Rs. 1600-2660 is combined and that the senior people are placed as SMs against the sanction posts while juniors are posted as ASMs.

4. Learned counsel for the applicants, Shri J.K. Kaushik, challenged the stand taken by the respondents that the applicants were only appointed as ASMs and not SMs. He submitted that prior to 1987, the Traffic Apprentices were being appointed in the grade of



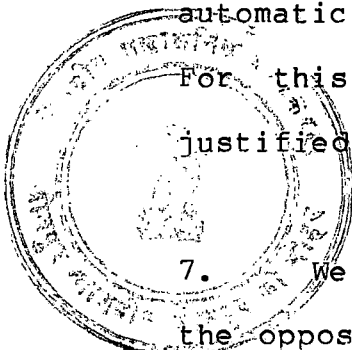
Rs. 1400-2300 against 15% quota but post 1987 as per the revised scheme for recruitment of Traffic/commercial Apprentices issued vide Railway Board's Letter No. E(NG)11/84/RC3/15(AIRF), dated 15.05.1987, a change was brought about. From then onwards the Traffic Apprentices are only being recruited as SMS and not ASMs. Learned counsel also brought to our notice the judgment of Hon'ble the Supreme Court in the case of UOI and Others Vs. M. BHaskar & Ors., SLJ 1996(2) SC 25, and referred to Para 10 of that order to content that the respondents themselves stated before the Apex Court that after 15.05.1987, the Traffic Apprentices were being recruited to man the posts of SMS and not ASMs. Shri Kaushik stressed that having so submitted before the Apex Court, the respondents now cannot turn back and say that the applicants were appointed only as ASMs. The fact that the letter of appointment dated 30.04.1996(Annexure A-3) indicated their posting as ASM will not be material in view of the legal position having already been decided by the Apex Court. In view of this background, learned counsel contended that the applicants are required to be assigned seniority above all the ASMs in the grade of Rs. 1600-2660 who were in position at the time of appointment of the applicants. He also assailed the action of the respondents for preparing a combined seniority list of ASMs and SMS in the grade of Rs. 1600-2660 on the ground that these were two distinct categories and there was no sound reason for putting the two cadres in one seniority list. To buttress this argument he referred to the orders of the restructuring of the cadre dated 11.03.1993(Annexure A-8) which lists the category of ASMs separately from the category of SMS. While conceding that the scale of Rs. 1600-2660 has also been provided in the category of ASMs consequent to this restructuring, he asserted that the category of Station Masters is distinct as is

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apparent from the respondents own order itself.

5. Short controversy involved in this case is whether the Traffic Apprentices are recruited as SMS or ASMs in the grade of Rs. 1600-2660 and whether the seniority assigned to the applicants in the category of ASMs is as per rules.

6. Learned counsel for the respondents submitted that in Western Railway a combined seniority list is being prepared for SMS and ASMs in the scale of Rs. 1600-2660 and he also produced a copy of such seniority list issued on 26.10.1998. He stated that under the rules, Traffic Apprentices are recruited only as ASMs in the scale of Rs. 1600-2660 and they are assigned seniority on this post only. It was also explained by the learned counsel that the change over from ASM grade Rs. 1600-2660 to SM grade Rs. 1600-2660 was automatic and as per seniority. This did not involve any promotion. For this reason a combined seniority list was stated to be justified.



7. We have given our anxious consideration to the contentions of the opposing parties and have perused all the documents brought on record, the legal position and the rule position. We have carefully gone through the judgment of Hon'ble the Supreme Court in the case of UOI Vs. M. Bhaskar on which the reliance was placed by the learned counsel for the applicants. In that case pre 1987 Traffic Apprentices had claimed parity of pay scale with post 1987 recruittees. Prior to the letter dated 15.05.1987 Traffic Apprentices were recruited as Assistant Station Masters in the scale of Rs. 1400-2300. After issuance of the revised scheme they are being recruited in the pay scale of Rs. 1600-2660. This was



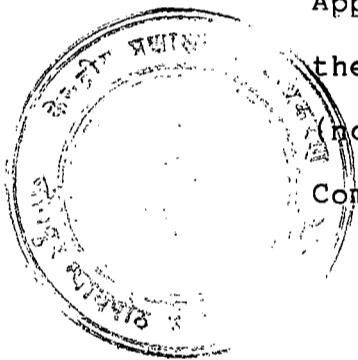
justified by the respondents before the Apex Court by saying, and we quote from Para 10 of the said judgement as under :-

" Another submission made by Mrs. Sharda Devi in assailing the validity of memorandum was that though pre 15.05.1987 Apprentices would get the scale of Rs. 1400-2300, the post 15.05.1987. Apprentices were made available the scale of Rs. 1600-2660. For no good reason, and so, the memorandum was arbitrary. This is more so as earlier the apprentices were to undergo training for 3 years, which was reduced to 2 years by the memorandum Shri Malhotra's contention in this connection was that there was a change of policy in the sense that Apprentices recruited after 15.05.1987 were to man the posts not of Assistant Station Masters, Assistant Yard Masters etc. as before, but of Station Masters and Yard Masters. (emphasis supplied). It is because of this that higher pay scale was made available to them, it was also brought our notice that the memorandum provided that the standard of examination for the Apprentices to be recruited after 15.05.1987 was required to be higher than that which was prevailing and if because of this, the period of training was made 2 years in place of 3, the same cannot make the policy unreasonable, and two year period for training is of sufficiently long duration to equip persons selected after a more rigorous test. With the knowledge required to man the posts in question. We agree and state that if direct recruits passing examination of higher standard to man higher posts were required to be given higher pay scales, the same cannot be regarded in any way as discriminatory or even arbitrary. Such a policy decision is not unreasonable also."



8. It is obvious from the assertion made by the department before the Supreme Court that post 1987 Traffic Apprentices were being recruited to be posted as SMs and not ASMs. Admittedly the applicants before us were recruited in 1994 and thus were obviously recruited under the provision of post 87 scheme. We have also gone through Para 122 of Indian Railway Establishment Manned volume-I (Revised edition-1989). In Para 122(4) the channel of promotion in the cadre of ASMs/SMs has been laid down. As per this channel of promotion ASM/SM have been shown in the grade of Rs. 1400-2300 whereas the grade of Rs. 1600-2660 has been assigned only to SMs. Note 3 of the same Para also lays down as follows :-

" 25% of the vacancies in the category of Station Masters grade Rs. 1600-2660 will be filled by induction of Traffic Apprentices of which 15% will be from the open market through the Railway Recruitment Boards and 10% from amongst the serving (non-Ministerial graduates through Limited Departmental Competitive Examinations".



9. It is evident from the above that the pay scale of Rs. 1600-2660 was only allowed to Station Masters and Not Assistant Station Masters and that the Traffic Apprentices are to be recruited against 15% vacancies of SMs. This also is in line with what had <sup>been</sup> stated before the Apex Court by the respondents themselves. Thus we are not able to accept the explanation given by the respondents that the applicants were recruited only as ASMs and not SMs. The fact that the appointment letter dated 30.04.1996 (Annexure A-3)

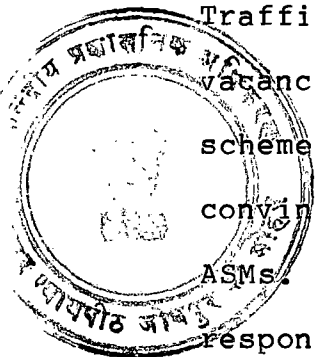
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indicating applicants' posting as ASMs cannot change the status of the applicants. If at all, this is a mistake committed by the department, ~~it~~ which needs to be rectified.

10. We have also gone through the orders of restructuring issued by Railway Boards Letter No. PC 111/91/CRC/1 New Delhi dt. 27.01.1993, on which basis Annexure A-8 dated 11.03.1993 has been framed by the respondents. The restructured cadre of the Traffic transportation department has been shown in Annexure A-1 to this order. In the category of SMS/ASMs, two alternatives have been provided. In the Alternative - I, the entire cadre right from ASM/SM grade 1200-2040 upto Station Superintendent in the grade of Rs. 2375-3500 has been shown as a combined cadre and posts have been distributed as per various percentages. Existing and revised percentages of this combined cadre have also been indicated. If any zonal railway follows this alternative then apparently there can be no doubt that there will be only one seniority list in the grade of Rs. 1600-2660 and the Traffic Apprentices recruited will find their proper place in this grade. But, in the second alternative, it is very clear that the cadre of ASM has been distinguished from the cadre of SMS. As per second alternative before this restructuring the grade of Rs. 1600-2660 was not available to ASMs. It has only been introduced after restructuring to the extent of 26%. Incidentally we have observed that in the Railway Board's letter the scale of ASMs has been shown as Rs. 1600-2600 and not 1600-2660. It is not clear whether it is a typographical error or a deliberate decision. In respect of category of SMS, the pay scale of Rs. 1600-2660 has been provided for 22% posts, this percentage was earlier 43.5% It leaves no doubt that in the second alternative, the ASMs in the grade of Rs. 1600-2660(or Rs. 2600) have to be promoted to



the grade of Rs. 1600-2660. In any case, this is a Status Promotion and we do not accept the arguments advanced by the respondents that there is no difference between the two and that as per seniority the senior people will be called SMS and Junior ASMs. There is no system of preparing a combined seniority list of two distinct cadres. It is apparent from Annexure A-8, that the respondents have adopted the alternative 2 and have assigned 22 % of the posts to the category of SMS. As we have observed earlier, prior to this restructuring in the ASMs cadre, the pay scale of Rs. 1600-2660 (or 2500) did not exist. The natural corollary is that Traffic Apprentices after 1987 could never have been posted as ASMs, whether Alternative-I is followed or alternative-II is followed. In fact Alternative-II makes the position very clear and distinct. It emerges from the above that prior to restructuring of 1993, there was no pay scale of Rs. 1600-2660 in the category of ASMs and Traffic Apprentices were obviously being recruited as against the vacancies of SMS. If that be so, introduction of restructuring schemes cannot result into lowering of their status. Thus we are convinced that the applicants were only recruited as SMS and not as ASMs. Having said so, we obviously conclude that the action of the respondent in preparing a combined seniority list of the cadre of ASMs/SMS is erratic. The respondents are required to consider the applicants only as SMS from the date of their appointment and to assign them their due position in the category of SMS. With this change, their position in the eligibility list for the selection held in 1998, would need to be revised. The respondents have submitted that the selection process has been completed. In case, any of the juniors to the applicants, as per the revised seniority position in the light of our conclusions above have been promoted to the grade of Rs. 2000-3200, the applicant shall be entitled to that

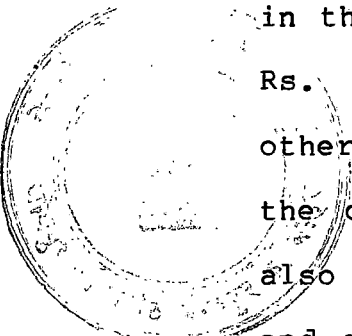


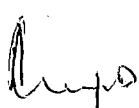
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benefit w.e.f. their next juniors. The applicants are also entitled to all consequential benefits including fixation of pay and payment of arrears.

11. We, therefore dispose of this OA with the order as follows :

" We direct the respondents to treat the applicants as having been recruited in the category of SMS in the grade of Rs. 1600-2660 and not in the category of ASMs. The respondents shall assign the correct position of seniority to the applicants in the category of SMS w.e.f. their date of appointment. Based on this revised seniority, if any juniors to the applicants have been promoted as Station Superintendent in the grade of Rs. 2000-3200(now revised to the pay scale of Rs. 6500-10000), the applicants shall be so promoted, if otherwise suitable, and given the benefit of promotion w.e.f. the date of promotion of the next junior. Respondents are also directed to fix the pay of the applicants accordingly and grant them arrears of pay. The respondents are further directed to complete this process within a period of 3 months from the date of receipt of a certified copy of this order. No order as to costs.



  
(A.P. NAGRATH)  
Adm. Member

  
(JUSTICE O.P. GARG)  
Vice Chairman