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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JODHPUR BENCH,

J O D H P U R

Date of Order : 11.04.2002 .

1. O.A.No. 143/2001
2. O.A.No. 144/2001

1. Narendra Singh S/o Shri Ramswaroop, aged about 43 years, at present employed on the post of D/H/Kh/Mech Office of the Senior Section Officer (General), Diesel, Shed, Bhagat Ki Kothi, Jodhpur, N/Rly.
2. Dinesh Kumar S/o Shri Nenu Ram, aged about 41 years, at present employed on the post of D/H/Kh/Mech Office of the Senior Section Engineer (General), Diesel Shed, Bhagat Ki Kothi, Jodhpur, N/Rly.
3. Omkar Nath S/o Shri Shiv Nath, aged about 45 years, at present employed on the post of D/H/Kh/Mech Office of the Senior Section Engineer (General), Diesel Shed, Bhagat Ki Kothi, Jodhpur, N/Rly.
4. Mohan Das S/o Shri Prem Das, aged about 41 years, at present employed on the post of D/H/Kh/Mech Office of the Senior Section Engineer (General), Diesel Shed, Bhagat Ki Kothi, Jodhpur, N/Rly.
5. Mohan Lal S/o Shri Hukma Ram, aged about 46 years, at present employed on the post of D/H/Kh/Mech Office of the Senior Section Engineer (General), Diesel Shed, Bhagat Ki Kothi, Jodhpur, N/Rly.
6. Kishna Ram S/o Shri Jodha Ram, aged about 41 years, at present employed on the post of D/H/Kh/Mech Office of the Senior Section Engineer (General), Diesel Shed, Bhagat Ki Kothi, Jodhpur, N/Rly.
7. Dev Raj Singh S/o Shri Bhawani Singh, aged about 33 years, at present employed on the post of D/H/Kh/Mech Office of the Senior Section Engineer (General), Diesel Shed, Bhagat Ki Kothi, Jodhpur, R/Rly.
8. Shiv Shankar S/o Shri Mangi Lal, aged about 41 years, at present employed on the post of D/H/Kh/Mech Office of the Senior Section Engineer (General), Diesel Shed, Bhagat Ki Kothi, Jodhpur, N/Rly.
9. Om Vir Singh S/o Shri Shyam Singh, aged about 46 years, at present employed on the post of D/H/Kh/Mech Office of the Senior Section Engineer (General), Diesel Shed, Bhagat Ki Kothi, Jodhpur, N/Rly.

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10. Chatra Ram S/o Shri Magaram, aged about 44 years, at present employed on the post of D/H/Kh/Mech Office of the Senior Section Engineer (Geneal), Diesel Shed, Bhagat Ki Kothi, Jodhpur, N/Rly.

11. Bhika Ram S/o Shri Nunda Ram, aged about 43 years, at present employed on the post of D/H/Kh/Mech Office of the Senior Section Engineer (General), Diesel Shed, Bhagat Ki Kothi, Jodhpur, N/Rly.

Address : C/o Shri Narendra Singh S/o Shri Ram Swaroop, Quarter No. 87, Laxminagar, Paota C Road, Jodhpur.

.....Applicants.
in OA 143/2001.

VERSUS

1. Union of India through General Manager, Northern Railway, Baroda House, New Delhi.
2. Divisional Personnel Officer, Northern Railway, Jodhpur Division, Jodhpur.
3. Senior Divisional Mechanical Engineer (Diesel), Northern Railway, Jodhpur Division, Jodhpur.
4. Shri Rajesh Chandra Sharma S/o Shri Khuma Ram Sharma
5. Shri Vinod Kumar Gaur S/o Shri Bhanwar Lal Gaur.
6. Shri Ram Charan Meena S/o Shri Mitha Lal
7. Shri Satish Kumar Saini S/o Shri Ram Lal Saini
8. Shri Amar Kaur Rai S/o Shri Damodhar Prasad Rai
9. Shri Dayal Prasad Mehara S/o Shri Ram Narain Mehara
10. Shri Rajesh Raman S/o Shri Balram Prasad Singh
11. Shri Ram Nivas Megawal S/o Shri Har Karan Ram

Respondents No. 4 to 11 all are working on the post of Trainee Technician, Grade III (Diesel/Mech) in Diesel Shed, Bhagat Ki Kothi, Jodhpur, N/R. Address : Through the Senior D.M.E. (Diesel), Bhagat Ki Kothi, Jodhpur, N/R.

.....Respondents.

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1. Kanhiya Lal S/o Shri Anand Prasad, aged about 46 years, at present employed on the post of D/H/KH, Elect. Office of the Senior Section Engineer (General), Bhagat Ki Kothi, Jodhpur, N/Rly.
2. Bhanwar Lal S/o Shri Chatra Ram, aged about 44 years, at present employed on the post of D/H/KH, Elect.

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Office of the Senior Section Engineer (General), Diesel Shed, Bhagat Ki Kothi, Jodhpur, N/Rly.

3. Kamleshwar Chobey S/o Shri Satya Dev, aged about 42 years, at present employed on the post of D/H/KH Elect, Office of the Senior Section Engineer (General), Diesel Shed, Bhagat Ki Kothi, N/Rly.
4. Chetan Ram S/o Shri Bheru Ram, aged about 42 years, at present employed on the post of D/H/KH Elect, Office of the Senior Section Engineer (General), Diesel Shed, Bhagat Ki Kothi, Jodhpur, N/Rly.
5. Madan Gopal S/o Shri Mohan Lal aged about 38 years, at present employed on the post of D/H/KH Elect, Office of the Senior Section Engineer (General), Diesel Shed, Bhagat Ki Kothi, Jodhpur, N/Rly.
6. Dharam Vir Singh S/o Shri Mikki Singh, aged about 44 years, at present employed on the post of D/H/KH Elect, Office of the Senior Section Engineer (General), Diesel Shed, Bhagat Ki Kothi, Jodhpur, N/Rly.
7. Chunni Lal S/o Shri Balu Ram, aged about 43 years, at present employed on the post of D/H/KH Elect, Office of the Senior Section Engineer (General), Diesel Shed, Bhagat Ki Kothi, Jodhpur, N/Rly.

Address : C/o Kamleshwar Chaubey, Quarter No. D L 8 H, Diesel Railway Colony, Bhagat Ki Kothi, Jodhpur.

.....Applicants.
in OA 144/2001

VERSUS

1. Union of India through General Manager, Northern Railway, Baroda House, New Delhi.
2. Divisional Personnel Officer, Northern Railway, Jodhpur Division, Jodhpur.
3. Senior Divisional Mechanical Engineer (Diesel), Northern Railway, Jodhpur Division, Jodhpur.
4. Shri Mahavir Prasad Jain S/o Shri Phool Chand Jain, Trainee Technician Grade III (Diesel/Elect)
Through Senior DME (Diesel), Bhagat Ki Kothi, Jodhpur, N/F
5. Shri Sanjiv Kumar Agarwal S/o Shri Ratan Lal Agarwal, Trainee Technician Gr.III (Diesel/Elect),
Through: Sr.DME(Diesel), Bhagat Ki Kothi, Jodhpur, N/R.

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.....Respondents.

Mr. B. Khan, Counsel for the applicants.
Mr. Kamal Dave, Counsel for the official respondents.
None is present for the private respondents.

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CORAM :

Hon'ble Mr. Justice O.P. Garg, Vice Chairman

Hon'ble Mr. Gopal Singh, Administrative Member

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ORDER

Per Mr. Gopal Singh, Administrative Member :

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

2. Applicants' case is that they are holding the post of Diesel Helper Khalasi (Mechanical) in the Diesel Shed at Bhagat-Ki-Kothi, Jodhpur. They were appointed by the respondent-department during the period from 1976 to 1991. The Railway Board issued a Circular No. 222/98 dated 28.9.1998 (Annex.A/10), prescribing the procedure for filling up the post in Artisan category. It has also been provided that the additional posts in the grade of Rs. 3050-4590 becoming available in terms of these orders, should be filled up from the employees possessing prescribed qualification on roll as on 1.9.1998. It has further been provided that 60% vacancies ear-marked for direct recruitment, should be filled up from the employees possessing prescribed qualifications up to 31.8.2002 or till such time, no such eligible person remains awaiting placement in the grade, whichever is earlier. It is the contention of the applicants that all the applicants possess the requisite qualification and are fully eligible for placement in the grade Rs. 3050-4590 but, the authorities have not taken any steps in this direction to give effect to the instructions issued by the Railway Board. It is further alleged that the

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Railway authorities issued orders for filling up the additional as well as 60% of vacancies from open market instead of filling up the same from the serving employees possessing required qualification. Applicants have also submitted few appointment letters in this regard.

3. In the counter, the case of the applicants has been denied by the respondents and it is pointed out by the respondents that the applicants do not fulfil minimum requisite qualification i.e. Course Completed Act Apprentices, ITI passed candidates and Matriculates and hence, they cannot be considered for placement against the Artisan category. It has, therefore, been urged by the respondents that both the applications are devoid of any merit and deserve dismissal.

4. We have heard the learned counsel for the parties and perused record of the case carefully.

5. This controversy had come up earlier before us in OA No. 32/ 2001 and 195/2001 decided on 27.3.2002 and it was observed that the applicants therein, did not possess requisite qualification and as such, they were not eligible to be considered against the artisan category. In the instant case, we find that all the applicants possess atleast minimum qualification of matriculation or ITI certificate, the same has been disputed by the respondents. We consider it appropriate to extract below Paras 5 and 6 of the Railway Board's Circular dated 28.9.1998 :

"5. In pursuance to the above changes, the revised methodology for filling up the posts of skilled Artisans in grade Rs. 3050-4590 in diesel/electric/EMU maintenance trades will be as under:

(i) 60% by direct recruitment from successful course completed Act Apprentices, ITI pass candidates and matriculates from the open market.

(ii) 20% from serving semi-skilled and unskilled staff with three years of regular service with educational

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qualification as laid down in the Apprentice Act; as outlined in Railway Board's letter No. E(NG)I/96/PM7/56 dated 2.2.1998; and

(iii) 20% by promotion of staff in the lower grade as per prescribed procedure.

6. With a view to give the benefit of the grade Rs. 3050-4590 to the existing staff with the prescribed qualification stated in para 5 (i) above in a reasonable time, the following procedure of filling up the posts in grade Rs. 3050-4590 is laid down for the present :

"(i) The additional posts in the grade Rs. 3050-4590 becoming available in terms of these orders will be filled up by the employees possessing the prescribed qualification indicated in para 5(i) above and who are on roll as on 1.9.1998, on passing the prescribed trade test.

(ii) The 60% vacancies earmarked for direct recruitment which accrue from 2.9.1998 onwards may be filled up from serving employees on roll as on 1.9.1998 and who possess the prescribed qualifications as in para 5 (i) above as outlined in Railway Board's letter No. E(NG)I/96/PM7/56 dated 2.2.1998 for a period upto 31.8.2002 or till such time as no such employees eligible as on 1.9.98, remains awaiting placement in the grade, whichever is earlier."

7. It is contended by the respondents that none of the applicants possess the qualification of course completed Act Apprentices or ITI pass along with matriculation, as per the provision 5 (i) of Railway Board Circular dated 28.9.1998. It is the contention of the respondents that besides course completed Act Apprentices or ITI pass, candidates have to be matriculates to be eligible for consideration for placement in the scale of Rs. 3050-4590 in the artisan category. However, a close reading of Para 5 (i) of Circular dated 28.9.1998, reveals that there are three independent categories from which skilled artisans can be recruited. These three categories are ; (i) course completed Act Apprentices, (ii) ITI pass and (iii) matriculates. The contention of the respondents that

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candidates in category (i) or (ii) have to be matriculates to be eligible for placement in artisan category scale of Rs. 3050-4590 is, in our opinion, not tenable. It is also seen from Para 159 of the IREM, Vol.I which provides for filling up skilled artisan grade III posts with the period of training for direct recruits, will vary depending on the qualification of recruits. The training period is prescribed as under :-

- (i) Course Completed Act Apprentices Training in Railway Establishment - NIL
- (ii) Course Completed Apprentices Training in Non-Railway Establishment - Six months.
- (iii) ITI pass candidates - Six months.
- (iv) Matriculates - Three years.

It is, therefore, clear that direct recruitment to artisan category post can also be from the matriculates from open market. It is also seen from Annexs. A/1 and A/2 of O.A. No. 143/2001 that both the candidates appointed as Technician Grade III (Diesel/Mechanical), were having the qualification of BSc and BA respectively and both the candidates have been deputed for three years training. Thus, in absence of any technical qualification both the candidates have been considered as matriculates and have been deputed for training for three years as per Para 159 (supra). It is also seen from Annexs. A/3 and A/8 of O.A. No. 143/2001 that the candidates having diploma in Mechanical Engineering, were sent for six months training. Similarly, Annex.A/4 is an appointment letter to a candidate whose educational qualification has been Senior Higher Secondary and he has been sent for three years training. Annex. A/5 is the case of a candidate whose educational qualification is Intermediate and he has been sent for three years training. Similarly, the candidates at Annexs. A/6 and A/7, whose educational qualification is Senior Secondary and BA respectively, have been deputed for three years training. All this give strength to our view that matriculates can also be directly recruited as

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skilled artisans. Thus, the argument put forth by the respondents that all the candidates to be eligible for placement in the artisan category grade of Rs. 3050-4590 have to be matriculates is not tenable and, therefore, rejected.

8. It is clear that for an employee to be eligible for placement in the skilled Artisan grade Rs. 3050-4590, one has to be either course completed Act Apprentices or ITI passed candidate or matriculate. Since all the applicants before us, are matriculates or ITI passed, we are firmly of the view that they are eligible to be considered for placement in the skilled Artisan grade of Rs. 3050-4590. In terms of the Circular dated 28.9.1998 (supra) all these applicants should have been considered for placement in the skilled Artisan grade, however, the respondents have gone ahead for direct recruitment for filling up the posts. This was against the spirit of the Circular dated 28.9.1998. In these circumstances, we find much merit in these applications and both the applications deserve to be allowed. Accordingly, we pass the order as under :-

"Both the O.As are allowed. The respondents are directed to consider the applicants for filling up the additional posts as well as the vacancies for the period from 2.9.1998 to 31.8.2002 against 60% direct recruitment quota from the applicants and other eligible serving employees on roll as on 1.9.1998. The Appointment of direct recruits against these posts would be treated provisional till all the eligible in service candidates remains awaiting placement in the grade. No costs."

Gopal Singh
(Gopal Singh)
Adm. Member

Justice O.P.Garg
(Justice O.P.Garg)
Vice Chairman

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Part II and III destroyed
in my presence on 11-2-02
under the supervision of
Section Officer (1) as per
Order dated 11-15-02

Section Officer (Record)