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**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
JODHPUR BENCH, JODHPUR**

DATE OF DECISION: 20TH FEBRUARY, 2004

Original Application No. 182/2002



1. Brijesh Kumar s/o Shri Rajendra Kumar, Driver Goods
2. Shishu Pal s/o Shri Jai Narain, Driver Goods
3. Madan Lal Meena s/o Jodi Ram, Mail/Exp. Driver
4. Asho Kumar s/o Shri Ghanshyam, Driver Goods
5. M.H.Gouri s/o Shri M.Hussain Gouri, Driver Goods
6. Rajendra s/o Shri S.P.Bhadana, Driver Goods
7. Nauratmal s/o Shri Kalu Ram, Driver Goods
8. Satya Prakash s/o Shri Ramfer, Driver Goods
9. Pratap Singh s/o Shri Tara Chand, Driver Goods
10. Anil Gautam s/o Shri Lokedra P. Gautam Driver Goods
11. Rajpal Singh s/o late Gordhan Driver Goods
12. Ram Madan R s/o Shri Shriram Patel, Driver Goods
13. Kamruddin s/o Shri Noor Khan, Driver Goods
14. Prakash Chand s/o Shri Puranchand, Driver Goods
15. Naresh Kumar s/o Shri late Mahipal Mishra, Driver Goods
16. Jai Kishan Meena s/o Shri Mukand Meena, Driver Goods
17. Sarvesh Kumar s/o Shri Naresh Kumar, Driver Goods
18. Dinesh Kumar s/o Shri Ram Niwar Sharma, Driver Goods

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Resident of applicant Nos. 1 to 16 are c/o Lco Foreman Western Railway Abu Road and applicant No. 17 and 18 c/o Loco Foreman, Western Railway Udaipur/Rana Pratap Nagar.

Versus

1. Union of India through the General Manager, Western Railway, Churchgate, Mumbai.
2. Divisional Railway Manager (E), Western Railway, Ajmer Division, Ajmer.
3. Shri Dinesh Kuamr Chandna, Ad-hoc Asstt. Foreman, Rana Pratap Nagar, Western Railway.
4. Shri Ashok Kumar Vashistha, Adhoc Asstt. Loco Foreman, Abu Road, Western Railway.
5. Shri Maya Ram Kishan Bihari, Adhoc Asstt. Loco Foreman, Abu Road, Western Railway.
6. Shri Promod Narayan Gautam, Adhoc Asstt. Loco Foreman, Abu Road, Western Railway,
7. Shri Ashujee Srivastava (M/Wt), Chargeman, Gandhi Dham, Western Raiwlay.



Respondents

Mr. J.K. Mishra alongwith Mr. B. Khan, counsel for the petitioner.

Mr. S.S. Vyas, counsel for the respondent Nos. 1 & 2.

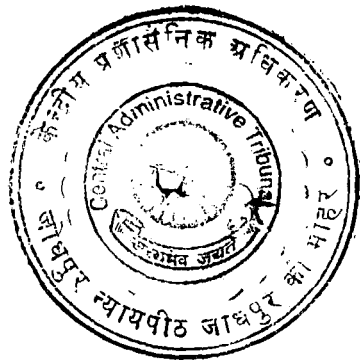
Mr. P.P. Choudhary, counsel for the respondent Nos. 3 to 7.

CORAM:

HON'BLE MR. M.L. CHAUHAN, MEMBER (JUDL)
HON'BLE MR. M.K. MISRA, MEMBER (ADMN)

ORDER (ORAL)

The applicants 17 in numbers who are presently working as Driver Goods except applicant No. 3 who is working on the post of Mail Exp. Driver, has filed this Original Application thereby praying for the following reliefs:



"(i) That the impugned order dated Annexure A/1 dt. 19.3.2002 and Annexure A/2 dt. 6.5.02, may be declared illegal and the same may be quashed and the applicant allowed all consequential benefits.

(ii) That the respondents may kindly be directed not to fill up the post of crew controller/power controller from fitting/maintenance staff. Further respondents may be directed to fill up the post of crew controller as per the circular of Rly Board dt. 25.11.92 & 10.2.98 Annexure A/4 & A/5. And any other direction, or order may be passed in favour of the applicant, which may be deemed just and proper under the facts and circumstances of this case in the interest of justice.

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

2. The facts of the case are that the applicants No. 1 to 16 are working on the post of Driver Goods in the pay scale of Rs. 5000-8000 except applicant No. 3 who is working on the post of Mail Express Driver in the pay scale of Rs. 6000-9800. The respondents vide letter dated 19.03.2002 at Annexure A/1 took step for regularising the services of the respondents No. 3 to 7 on the post of Assistant Loco Foreman (ALF for short) in the scale of Rs. 1600-2660 now merged into grade Rs. 2000-3200

by



subject to passing of requisite selection of ALF in terms of channel of promotion issued vide office letter dated 19.2.86. It was further made clear that they should pass the selection in one attempt. If they fail in the selection their substantive grade will alter to grade Rs. 1400-2300, as per the conditions stipulated in Annexure A/1, It may be relevant to state here that at the relevant time, the private respondents No. 3 to 7 were working as ALF in the scale of Rs. 1600-2660 on adhoc basis. The respondents No. 2 has also issued a notification dated 06.05.2002 (Annexure A/2) by which the respondents No. 3 to 7 were called for to appear in the selection so that they could be regularised. Feeling aggrieved by this action of the respondents, the applicant has filed Original Application thereby praying for the aforesaid reliefs.

3. When the matter was listed for admission before this Tribunal on 22.07.2002, the applicant obtained ex-parte interim order from this Tribunal whereby the selection of the respondents No. 3 to 7 which was fixed for 23.07.2002, was postponed vide order dated 23.07.2002 (Annexure R/3).

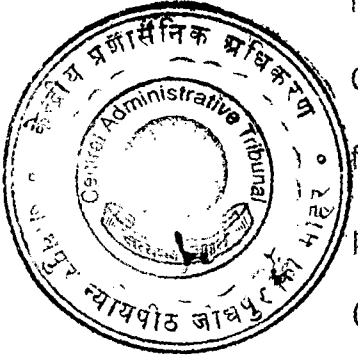


4. Notices of this application was issued to the respondents. The respondents has filed detailed reply thereby stating that the service of the private respondents are being regularised against the post of ALF in terms of Annexure A/1 & A/2. It is further stated that as per Railway Board letter dated 25.11.1992, it has been held that the post of ALF and LF will be exclusively filled up from the Loco Maintenance side and further laid down in para No. 3.7 that the post of ALF and LF will henceforth be filled up from the maintenance category only. The respondent has further stated that the applicants do not belong to maintenance category. It is further stated that as per letter dated 09.01.1998, it has been laid down that Mail/Express Driver, Senior Passenger/Passenger Driver and Sr. Goods Driver/Goods Driver will be drafted to perform duties as Powers/Crew Controller in Control Office. Thus as per Railway Board letter dated 25.11.1992, the post of Assistant Loco Foreman should be filled up from the maintenance category only and posts of power/crew controller should be drafted from Mail/Express Driver, etc.

5. The applicant has not filed rejoinder.

6. We have heard the learned counsel for the parties and perused the material placed on record.

6.1 The main grievance of the applicants as can be seen from the prayer clause which has been reproduced above, is that the respondents may be restrained from filling up the post of Crew Controller/Power Controller from fitting/maintenance staff and further respondents should also be directed to fill up the said posts as per Railway Board Circular dated 25.11.1992 and 09.01.1998 at Annexure A/4 and A/5, respectively. From the version as placed by the respondents in their reply affidavit, it is evident that the respondents are taking step for regularising the services of the private respondent no. 3 to 7 against the post of ALF in the scale of Rs. 1600-2660 in terms of condition laid down in Annexure A/1 & A/2 and they are not taking any step for filling up the post of Crew Controller/Power Controller from fitting/maintenance staff. The respondents has also relied upon the Railway Board letter dated 25.11.1992 more particularly on para 3.7 which stipulates that the post of ALF & LF will henceforth be filled from the maintenance categories only. In order to decide the matter, it will be useful to quote para 3.7 of the said Railway Board Circular, which reads as under:



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"3.7 The post of Assistant Loco Foreman (ALF) and Loco Foreman (LF) will henceforth be filled from the maintenance categories only. Medically de-categorised Loco Running Staff should also be fitted in these categories subject to fulfilling the medical standards prescribed for these posts. Even Loco Running Staff could be made eligible for these posts if they so desire and if considered feasible by the General Managers in consultation with the recognised Unions. In such a case, these running staff will not be eligible for any further benefits as per paras 4 and 5."



Thus, it can be seen from the aforesaid para, the post of ALF will be filled henceforth from Maintenance Categories only. Admittedly, the applicants do not belong to this category as such they cannot have any grievance regarding regularisation of the services of the respondents No. 3 to 7 as ALF in terms of Annexure A/1 and A/2. Consequently, no relief regarding quashing of Annexure A/1 and A/2 can be granted to the applicants.


7. So far as second grievance of the applicants, is concerned, it may be stated that the respondents has not taken any step for filling up the post of Crew Controller/Power Controller. In the reply affidavit, the respondents has specifically stated that the applicants will be drafted to perform duties on the post of Crew Controller/Power Controller on the basis of Railway Board Circular dated 09.01.1998. In view of this specific stand taken

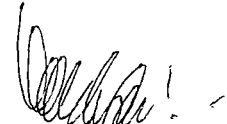
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by the respondents in the reply affidavit, the second prayer of the applicant also does not survive.



8. In view of what has been stated above, there is no substance in the present Original Application. The Original Application is hereby disposed of accordingly. The interim order granted on 22.07.2002 shall stand vacated. No costs.


(M.K.MISRA)
Member (A)


(M.L.CHAUHAN)
Member (J)

Order Copy Received OA 182/02

Rf/mtk
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For P.P. Choudhary
Ddr.
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(Copy Recd.
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26/2/2004
(Mahesh Sharma
DR. M. J. off.)
For S.S. Vyas
Advocate)