के.प्र.अ. (प्रक्रिया) नियमावली के नियम 22 के अन्तर्गत निः शुल्क प्रति

14

CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH; JODHPUR

Original Application Nos.169 & 170/2005

Date of decision: 12.07.2007

Hon'ble Mr. Kuldip Singh, Vice Chairman,

Hon'ble Mr. Tarsem Lal, Administrative Member.

1. Chatar Singh, S/o Shri Deep singh aged about 49 years at present employee on the post of STNC under the SS Lalgarh, Bikaner Division, Bikaner, North Western Railway.
2. Harish Kumar R, S/o Shri Rampath Singh aged about 30 years at present employee on the post of STNC under SS Birdhwal, North Western Railway, Bikaner Division, Bikaner.
3. Kishna Ram, S/o Shri Ram Charan aged about 35 years at present employee on the post of HTNC under SS Bikaner North Western Railway, Bikaner.
4. Ajay Kumar Sharma, s/o Shri Vishnudutt Sharma aged about 43 years, at present employee on the post of HTNC under SS Bikaner North Western Railway, Bikaner.
5. Anil Kumar Sareen, S/o shri Shyam Lal aged about 47 years at present employee on the post of CHC under SS Bikaner, North Western Railway, Bikaner.

C/o shri Chatar Singh, S/o Shri Deep Singh, Qr. No. 268-A Double Story, Railway Colony, Largarh, Bikaner.

: Applicants in O.A. No. 169/2005

1. Harish Kumar D, S/o Shri Dhanna Ram aged about 36 years, r/o Qr. No. 46-A Railway Medical Colony, Hanumangarh Junction at present employee on the post of HTNC under the S.S. Hanumangarh, Bikaner Division, North Western Railway,
2. Om Prakash Sharma, S/o shri Khajan Chand aged about 49 years, R/o Qr. No. T 16 N Railway Traffic Colony, Hanumangarh Junction at present employee on the post of HTNC, under S.S. Hanumangarh North Western Railway, Bikaner Division, Bikaner.

: applicants in O.A. No. 170/2005

Rep.by Mr. B.Khan: Counsel for the applicants in both O.As

COMPARED & CHECKED

Versus

1. Union of India through the General Manager, North Western Railway, Jaipur (Rajasthan)

2. Divisional Railway Manager, North Western Railway, Bikaner Division, Bikaner (Rajasthan)
3. Divisional Personnel Officer, North Western Railway, Bikaner (Rajasthan)

: Respondents.

Rep. By Mr. Manoj Bhandari: Counsel for the respondents. In both the OAs

ORDER

Per Mr. Kuldip Singh, Vice Chairman.

All the applicants have assailed the impugned Notification dated 01.04.2005, vide which their refusal to accept post of HTNC in the scale of pay of Rs. 5000-8000 were rejected. Again the applicants have submitted their representation to the competent authority stating that their refusal may please be accepted. The respondents vide their letter dated 23.05.2004 have accepted their refusal .

2. The facts of the case as alleged by the applicants are that the respondents have again promoted all the applicants on the post of HTNC vide order dated 20.01.2005. It is also mentioned therein that those staff who are not willing for their grade promotion should send their unconditional refusal within a fortnight from the date of issue of this letter. All the applicants have submitted their unconditional refusal. The respondents vide their order dated 01.04.2005 have again rejected their request of refusal. Therefore the applicants have approached this Tribunal for quashing the same. In addition it is stated that the selection for the post of Guard Goods in the scale of pay of Rs. 4500-7000 is going to be held on 25.06.2005. The applicants have stated that the respondents have accepted the refusal vide order dated

23.05.2004 and as such there will be a bar for one year for promotion and thus they are eligible to appear in the test to be held on 25.06.2005.

3. In the grounds, the applicants have stated that since the respondents have passed earlier an order accepting their refusal for promotion to the grade of Rs.5000-8000, as HTNC the action of the respondents in not declaring them as eligible for selection for the post of Guard Goods in grade Rs.4500-7000 against 60% promotee quota is arbitrary and on this ground alone the impugned order at Annex. A/1 is liable to be quashed. However, on the basis of interim order granted by this Tribunal, the applicants were permitted to appear in the selection test.

4. The respondents are contesting the O.A by filing a detailed reply. The case of the respondents are that the applicants were promoted under restructuring scheme and the applicants were placed in the pay scale of Rs. 5000-8000, as HTNC. As the scale of pay of Guard Goods is Rs. 4500-7000 and since the applicants are already in the pay scale of Rs. 5000-8000, they were become ineligible and therefore all the applicants were declared as ineligible to appear in the selection for the post of Guard Goods in the scale of pay of Rs.4500-7000. The respondents have prayed for the dismissal of the O.As.

5. We have heard the learned counsel for both sides and perused the pleadings and records carefully. The case of the applicants is that since they had refused their promotion under the

restructuring Scheme, they could not have been placed in the pay scale of Rs. 5000-8000. They refused the same on the ground that they wanted to have their career prospects in Guard Goods grade. In this regard the learned counsel for the respondents submitted that under the restructuring scheme it is made clear that no refusal is permissible and that is why the refusal of the applicants had not been acceded to.

6. We have also called for the records. On going through the restructuring scheme we find that those who refused the upgradation under the restructuring scheme would be proceeded departmentally and therefore no one can refuse upgradation.

7. During the course of arguments the learned counsel for the respondents produced a letter dated 06.07.2007, wherein it has been clearly mentioned that those employees who have been upgraded and who have been permitted by the Divisional Railway Manager, to appear for the post of Guard Goods in the pay scale of Rs. 4500-7000, they should have been asked to give their consent before declaring the results of the written examination that they will be posted wherever the vacancy is available and the next action would be taken in accordance with the result. It is also made clear that the applicants will not pursue their O.A Nos. 168/2005, 1690/2005 and 170/2005 and they will not challenge their reversion before any Court of law in future.

8. At this juncture the learned counsel for the applicants submitted that they have no objection if they are reverted and they

will abide by the results. The respondents counsel submitted that if the applicants are reverted they would be treated as reverted from the date on which they were placed on the higher scale of pay and the recovery is also to be effected.

9. We have given our careful thought to the submissions made on behalf of both parties. In our considered view that since the applicants are willing for reversion and wanted to pursue their career prospects in the Guard Goods grade, it would not be fair on the part of the respondents to recover any amount from the applicants. They may be treated as reverted from the date of order of these O.As i.e. from 12.07.2007 and no recovery be made from them and the applicants should be deemed to be reverted from the date mentioned above. The result of the written examination in which the applicants had appeared by virtue of the interim order of this Tribunal be declared and the selection may be carried out in accordance with the recruitment rules on the subject. The O.As are disposed of as above. The result of the written examination and the consequent selection or otherwise would be binding on both parties. No costs.

Sd/-
[TARSEM LAL]
MEMBER[J]

Sd/-
[Kuldip Singh]
Vice Chairman

CERTIFIED TRUE COPY
Dated 16.7.2007

अनुभाग अधिकारी (न्याय.)
Section Officer (Judl.)
केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
जोधपुर न्यायपीठ, जोधपुर
Jodhpur Bench, Jodhpur

Part II and III destroyed
in my presence on 4/6/17
Under the supervision of
Section officer ( ) as per
order/dated 26/3/17

Section officer (Record)

R/C
for Mr. MANOJ B HANDAR
19.07.07

R/Copy
19/7/07