

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

CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR

ORIGINAL APPLICATION NO. 64, 65 and 108 of 2006.

Date of Order : 20.11.2007

1. Uda Ram S/o Shri Sultana Ram Aged about 54 years, Resident of Gangasahay Sewa Basti, Nokha Road, Near Old Bus Stand, Bikaner. Presently working on the posts of Goods Driver (Adhoc) under Loco Foreman, Lalgarh, North Western Railway, Bikaner Division, Bikaner.
2. Basir Ahmed S/o Shri Gani Mohammed, Aged about 50 years, R/o Rampura Basti, Lalgarh, Distt. Bikaner. Presently working on the posts of Goods Driver (Adhoc) under Loco Foreman, Lalgarh, North Western Railway, Bikaner Division, Bikaner.
3. Sri Chand Shukla S/o Shri Hari Kishan Shukla, Aged about 53 years, R/o Near Subudh Mandal School, Subhashpura, Bikaner, Distt. Bikaner. Presently working on the posts of Goods Driver (Adhoc) under Loco Foreman, Lalgarh, North Western Railway, Bikaner Division, Bikaner.
4. Liyakat Ali S/o Shri Hussain Khan Aged about 55 years, R/o Rampura Basti, Lalgarh, Distt. Bikaner. Presently working on the posts of Goods Driver (Adhoc) under Loco Foreman, Lalgarh, North Western Railway, Bikaner Division, Bikaner.
5. Sirajudeen S/o Shri Ismail Khan Aged about 48 years, R/o Rampura Basti, Lalgarh District Bikaner, presently working on the posts of Diesel Assistant under Loco Foreman, Lalgarh, North Western Railway, Bikaner Division, Bikaner.
6. Anis Ali S/o Shri Nawab Ali Aged about 40 years, R/o Rampura Basti, Lalgarh, Bikaner (Raj.) presently working on the posts of Diesel Assistant under Loco Foreman, Lalgarh, North Western Railway, Bikaner Division, Bikaner.
7. Shiv Ram S/o Shri Babu Lal Aged 48 years R/o Meharon Ka Mohalla Distt. Bikaner, presently working on the post of Diesel Assistant under Loco Foreman, Lalgarh, North Western Railway, Bikaner Division, Bikaner.
8. Ram Kishan S/o Shri Piru Singh Aged about 51 years, R/o Gali No. 2, Sarvodaya Basti, I/F of 6/233 Mukta Prasad Nagar, Bikaner, Distt. Bikaner. Presently working on the posts of Diesel Assistant under Loco Foreman, North Western Railway, Bikaner Division, Bikaner.

.....Applicants. (IN OA No. 64/2006)

Shoukat Ali S/o Shri Gyasudeen Aged about 52 years, R/o Gali No. 8, Rampura Basti, Lalgarh, District Bikaner, presently working on the posts of Goods Driver (Adhoc) under Loco Foreman, North Western Railway, Bikaner Division, Bikaner.

Waheed Ahmed S/o Shri Rafiq Ahmed Aged about 51 years R/o Gali No. 7, Rampura Basti, Lalgarh, District Bikaner. Presently working on the posts of Goods Driver (Adhoc) under Loco Foreman, North Western Railway, Bikaner Division, Bikaner.

Keshari Singh S/o Shri Ladu Singh Aged about 51 years, R/o Subhashpura, Near Subudh Mandal School, Bikaner, District Bikaner, presently working on

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the post of Shunter under Loco Foreman, North Western Railway, Bikaner Division, Bikaner.

4. Mohd. Hanif S/o Shri Salamudeen Aged about 50 years, R/o Gali No. 23, Rampura Basti, Near Railway Masjid, Lalarh, District Bikaner, presently working on the post of Senior Diesel Assistant under Loco Foreman, North Western Railway, Bikaner Division, Bikaner.
5. Sarif Ahmed S/o Shri Mohd. Sadiq Aged about 51 years, R/o Gali No. 9, Rampura Basti, Near Adarsh Vidya Niketan School, Lalgarh, District Bikaner, presently working on the post of Senior Diesel Assistant under Loco Foreman, North Western Railway, Bikaner Division, Bikaner.
6. Ambalal S/o Shri Fakir Chand Aged about 51 years, R/o Dhobi Talai, Near Tyagi Vatika, District Bikaner, presently working on the post of Diesel Assistant under Loco Foreman, North Western Railway, Bikaner Division, Bikaner.
7. Dula Ram s/o Shri Mota Ram Aged about 47 years, R/o Sarvodaya Basti, Near Singh Talab, Near Ramdev Mandir, By Pass Lalgarh, District Bikaner, presently working on the post of Diesel Assistant under Loco Foreman, North Western Railway, Bikaner Division, Bikaner.

....Applicants (IN OA NO. 65/2006)

1. Govind Singh S/o Shri Roop Singh Aged about 48 years, R/o Rampura Basti, Gali No. 20, Drona Children School Ke Peeche, Lalgarh, Bikaner, presently working on the post of Diesel Assistant under Diesel Foreman, North Western Railway, Bikaner.
2. Abdul Sayad S/o Shri Abdul Shakur Aged about 48 years, R/o Rampura Basti Gali No. 15, Near Karni Floor Mill, Lalgarh, Bikaner, presently working on the post of Diesel Assistant under Diesel Foreman, North Western Railway, Bikaner.
3. Amar Singh Rafiore S/o Shri Pep Singh Aged about 49 years, R/o Kupawat House, Fatipura, Bhaton Ka Baas, F.C.I. Godown Road, Indira Colony, Bikaner, presently working on the post of Diesel Assistant under Diesel Foreman, North Western Railway, Bikaner.
4. Surjeet Singh S/o Shri Ismail Khan Aged about 56 years R/o Rampura Basti, Gali No. 23, Near Railway Masjid, presently working on the post of Goods Driver (Adhoc) under Diesel Foreman, North Western Railway, Bikaner.
5. Safi Mohammed S/o Shri Ismail Khan aged about 50 years R/o Railway Quarter No. 138 II Story, Loco Colony, Hissar, Haryana, presently working on the post of Shunter (Adhoc Goods Driver) under Crew Controller North Western Railway, Hissar, Haryana.

....Applicants (IN OA No. 108/2006).

Versus

Union of India through the General Manager, North Western Railway, Jaipur.

2. The Divisional Railway Manager, North Western Railway, Bikaner Division, Bikaner.
3. The Senior Divisional Personnel Officer, North Western Railway, Bikaner Division, Bikaner.

....Respondents in all the OAs.



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For Applicants : Mr. S. K. Malik, Advocate
For Respondents : Mr. Manoj Bhandari, Advocate
(In OA No. 64/2006)
Mr. Salil Trivedi, Advocate
(In OA No. 65/2006)
Mr. K.K. Vyas, Advocate
(In OA No. 108/2006)

CORAM :

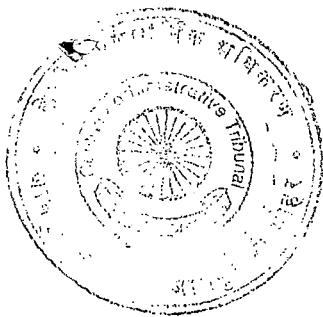
HON'BLE MR. JUSTICE A.K. YOG, JUDL MEMBER
HON'BLE MR. TARSEM LAL. ADMV. MEMBER

ORDER (ORAL)
(PER JUSTICE A.K.YOG, J.M.)

Heard Shri S.K. Malik, Advocate, on behalf of the applicants and Shri Manoj Bhandari, Advocate, for respondents No. 1 to 3 as also Shri Salil Trivedi, Advocate, and Shri K.K. Vyas, Advocate, appearing for respondents in connected O.A. No. 65/2006 and 108/2006.

At the outset, learned counsel appearing for applicants and respondents in the present O.A. and the connected O.A. No. 65 and 108 of 2006, agreed that all the three petitions be decided together as they are based on similar facts raising identical question and relief. Accordingly, all the three OAs are decided together by means of a common judgement. In view of the above, we shall refer to the facts of O.A. no. 64/2006 only.

Applicant/s in O.A. No. 65/2006 claim to be working on different posts including post of Goods Driver/s on ad hoc basis, post of Shunter, post of Senior Diesel Assistant, etc. and claim certain benefit/s under scheme/policy of the Ministry of Railways, contained in Circular letter dated 9.10.2003 (Annex.A/1) of the O.A. According to the applicants, they have been denied advantage/benefit under said scheme/policy. Being aggrieved, they claim to have filed a representation; copy of which is annexure A/3 to the O.A. Para 4.6 of the O.A. reads :



"4.6 That aggrieved of the inaction of the respondents, Loco Running Staff submitted a detailed representation dated 1/1 to respondent No. 2 highlighting the points raised therein in the representation and requested the respondents to implement the restructuring scheme and to accord benefits of upgradation under the modified selection procedure, but of no avail. Contents of this representation be treated as part and parcel of this Original Application. A copy of representation dated 1/1 is enclosed herewith this application and marked as Annexure A/3."

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However, pleadings contained in para 4.6 above, have been denied to the extent that no such representation was received. Relevant para 7 of the reply reads as under :

"That the averments contained in para 4.6 are not admitted and hence denied. It is submitted that no such representation has been received as contended by the applicants. Therefore, the answering respondents are not in a position to reply to the same."

Without entering into the question whether the representation as claimed by the applicant, was filed before the respondent, we are of the opinion that representation of the applicants should be considered as per law and decided by the respondents.

Applicants, in effect, have prayed for a writ of mandamus to direct the respondents to extend benefit under the scheme in question. Since applicants grievance has not yet been considered by the respondent authority, it will be appropriate that applicant/s is directed to approach the concerned competent authority for considering their claim.

In view of the above, we direct the applicants to file certified copy of this order along with complete copy of this O.A. (along with annexures) to the concerned competent authority, who shall decide the representation (copy of which is annexed at Annex. A/3 to the O.A.) exercising unfettered jurisdiction as per record before it and in my presence on 26-11-06 in accordance with law within eight weeks from the date of receipt of a copy of this order under the supervision of Section Officer (J) as per and forthwith communicate its decision by registered post.

Order dated 26-11-06

Section Officer (Record)

All the three OAs viz., 64, 65 and 108/2006 stand disposed of accordingly.

R/COPY
on 26/11
Lodhpur

Sd/-
(Tarsem Lal)
ADMN. MEMBER

Sd/-
(Ajay Kumar YOG.)
JUDL. MEMBER

CERTIFIED TRUE COPY
Dated 26-11-06

व्यापार विविधारी (ज्यादा)
Section Officer (Judl.)
संघीय प्रशासनिक विधिकरण
Central Administrative Tribunal
लोधपुर न्यायालय, जोधपुर
Jodhpur Bench Jodhpur

Re/copy
Signature
27/11/06