

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH
CALCUTTA

O.A. 1367 of 1997

Date of order : 19.1.06

Present : Hon'ble Mr. B.N. Som, Vice-Chairman.
Hon'ble Mr. B.V. Rao, Judicial Member.

Shri S.G. Somkusare & 2 Ors.

- Versus -

1. Union of India through
General Manager,
S.E. Railway, Garden Reach,
Calcutta.
2. Chief Personnel Officer,
S.E. Railway, Garden Reach,
Calcutta.
3. Sr. Engineer, (TT),
S.E. Railway, Sinil.

....Respondents.

For the applicant : Mr. P.K. Ghosh, counsel.

For the respondents : Mrs. U.D. Sen, counsel.

ORDER

Per Mr. B.N. Som, Vice-Chairman.

This O.A. has been filed by Sri S.G. Sonkusare and two others assailing the order issued by CPO/S.E. Railway's letter No. DCPO(G)/CON/ENGG/2/97 dated 31.10.97 regarding formation of a panel of AEN (Gr.B) against 70% vacancies to be filled up through Limited Departmental Examination.

2. The case of the applicants is that they are eligible in terms of their seniority for consideration of promotion to the Gr. B post. However, the seniority list of Jr. Operator/Chargeman B circulated under CPO/S.E. Railway's

endorsement No. P/ENG/WSP/T.T. Orgn./Seniority dated 24.3.94 (Annexure-A) was not prepared according to the seniority rules laid down for this purpose nor the respondents had disclosed the rule on the basis of which the said seniority list of Jr. Operator/Chargeman-B in the scale of Rs. 1400-2300/- as on 31.1.94 was circulated. Their further allegation is that the officials junior to the applicants were promoted to the next higher post of Sr. Operator in the scale of pay Rs. 1600-2660/- in gross violation of the statutory rules regarding promotion in service. They have further averred that although they were in the zone of promotion to the post of Sr. Operator on the basis of para 2.28 of I.R.E.M. on regular basis, they have not been given promotion even after filing of this O.A. Dy. Chief Personnel Officer, S.E. Railway by his letter dated 31.10.1997 (Annexure-D) circulated a list of 266 candidates as eligible for appearing on written examination on 8.12.97 for selection for promotion to the grade of AEN(Gr.B) against 70% vacancies under Limited Departmental Examination. Here also the list of 266 candidates did not include the names of the applicants whereas names of some of their juniors did appear at Sl. Nos. 214, 216, 217 and 218. Thereafter they submitted representation dated 22.11.97 to the General Manager, S.E. Railway, (Annexure-E) but without any result. Being aggrieved, the applicants have approached this Tribunal for redress of their grievance.

3. The respondents by filing a detailed reply have contested the application. Referring to the O.A. 1199/97 filed by the applicants they submitted that by the interim order of the Tribunal dated 17.10.97 the applicant No. 3 only was allowed to appear in the written test to the post of Foreman in the scale of pay Rs.2000-3200/-, and that his result would not be published without the leave of the

Tribunal. However, the respondents moved an application for vacating/modifying the interim order dated 17.10.97 referred to earlier stating that the applicant though called for in the written test as per Tribunal's order was not at all eligible to be called for promotion to the post of Foreman in terms of Estt. Srl. No. 183/87. They have further submitted that the claim of the applicants is that they were senior to the candidates whose names appeared in the list of 266 candidates and that they were eligible for the above selection. They have also submitted that the list of 266 eligible candidates published on 31.10.97 included 199 unreserved candidates called against 69 unreserved vacancies, 53 SC candidates against 15 vacancies and 14 ST candidates against 9 vacancies. They have submitted that as per the Tribunal's interim order dated 5.12.97 in this O.A. all the applicants were allowed to appear in the written examination on the condition that the result of the applicants would not be published until further orders. They have further submitted that the application being devoid of merit and is liable to be dismissed with cost.

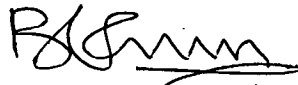
4. We have heard ld. Counsel for rival parties and have perused the records placed before us.


5. The applicants in this O.A. have challenged the seniority list of the Jr. Operator/Chargeman-B which is the feeder grade for Sr. Operator/Foreman. However, they have not impleaded those officials who are supposed to be their juniors but were given higher place in the seniority list. For the above lacuna of non-joinder of parties, this O.A. is liable to be dismissed. Further, the applicants have not been able to place any material on record to prove that they were eligible to be included in the said list of 266 candidates. It has further been

disclosed by the respondents in the reply that in pursuance of the order of this Tribunal they have allowed the applicants to appear in the written test.

4. We, therefore, direct the respondents to declare the results of the applicants and communicate the same to them. In case they have passed in the said examination, needlessly to say, the respondents should pass a speaking order to say whether the applicants can be given the benefit of their success in the said examination. The said exercise should be completed within 90 days from the receipt of this order.

5. With the above direction the O.A. is disposed of.


Member (J)


Vice-Chairman (A)