

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH
No. O.A. 244/1997

Date of order : 20.8.04

Present : Hon'ble Mr. D.C. Verma, Vice-Chairman
Hon'ble Mr. M.K. Mishra, Member(A)

1. Pankaj Kr. Lakra
2. Prabhakar Mahato
3. Anandamay Sarkar
4. Nemai Bouri
5. Bhramar Kumar Gupta
6. P Sai Prasad

.....Applicants

VS.

1. Union of India, service through
the General Manager, Garden Reach,
Calcutta - 700 043
2. Divisional Railway Manager,
South Eastern Railway, P.O. Adra,
Distt. Purulia
3. Sr. Divisional Personnel Officer/
Divisional Personnel Officer,
South Eastern Railway, P.O. Adra,
Distt. Purulia
4. The Chairman,
Railway Board, Rail Bhavan,
New Delhi

.....Respondents

For the applicants : Mr. B.R. Das, counsel
Mr. B.P. Manna, counsel

For the respondents : Mr. S. Choudhury, counsel

O R D E R

Per D.C. Verma, V.C.

Six applicants have filed this O.A. for employment against the vacancies/posts mentioned in Annexure 'A' & 'B' to the O.A. or in other vacancies/posts as are likely to be notified in Group 'D' cadre by way of special consideration as sons of loyal staff as per the directives of the Railway Board.

2. During the course of argument ld. counsel for the applicant submitted that the applicant No.1, Pankaj Kr. Lakra has already been appointed and the aforesaid relief is pressed in respect of remaining 5 applicants only.

[Signature]

3. The facts in brief are that during the Railways strike in the year 1974 some railway employees did not participate in the strike and for such loyal workers the Railway Board issued a notification providing certain facilities one of which was giving appointment to sons of such employees. Immediately after 1974 sons of some of the loyal employees were given appointment. The present applicants claimed to be sons of loyal employees and have claimed appointment on preferential ground against the vacancies notified vide Annexure 'A' and 'B'.

4. Annexure 'A' dated 13.11.1995 was for recruitment of casual labour against sanctioned casual posts for a period from 1.10.1995 to 30.9.1996. Para 3 of Annexure 'A' provides that no new face shall be engaged. The vacancy was of casual labour for track maintenance.

Annexure 'B' is dated 1.3.1996. It is for engagement of Safaiwala. It was provided that wards of immediate dependents as per pass rules of the serving railway employees may also apply for this. Both these notifications(Annexure 'A' & 'B') came for consideration in a bunch of cases which was decided by a Division Bench of this Tribunal on 25.11.1999. While deciding the bunch of cases the Tribunal observed that the employment of casual labour for track maintenance which was required from 1.10.1995 to 30.9.1996 has long expired, hence the question of impleading the petitioners therein against the said post after expiry of the term does not arise. In the present O.A. position remains the same and the applicants' claim for appointment against the post of casual labour for track maintenance which was sanctioned for the period from 1.10.1995 to 30.9.1996, cannot now be considered as the relief has become infructuous due to expiry of the period.

5. Ld. counsel Mr. Das, however, submitted that in pursuance to the second notification (Annexure 'B'), the respondents be directed to consider the applicants' claim as was done by the Allahabad Bench of the Tribunal in O.A.No.1383/1993(Rakesh Kr. Khanna Vs. Union of



India & Ors.) copy of which has been annexed as Annexure 'E' to the O.A. This argument was advanced before this Tribunal in the earlier O.A.s. In the earlier O.A. bearing No.O.A.847/1996(Manoj Kr. Roy & Ors.)with O.A.848/1996,O.A.849/1996,O.A.949/1996 and O.A.514/1998 while considering the said argument the Tribunal observed that selection process as per notification dated 1.3.1996 had not been initiated and consequently the respondents were directed to consider the names of the applicants therein in terms of the said notification provided they applied for the said posts in terms of the notification to the appropriate authority.

6. Reply filed by the respondents in the year 1999 in the present case shows that in pursuance of the notification dated 1.3.1996(Annexure 'B' to the O.A.), huge number of applications have been received, therefore, proper scrutiny of eligible persons was done to adjudge the fitness and suitability by a duly constituted screening committee and the persons who were found suitable for engagement as substitute Safaiwala were short listed. The Screening Committee did not find the present applicants suitable for engagement,hence their names have not been short listed. However, because of a stay order granted by a bench of this Tribunal in the other O.A. the respondents have not proceeded with the matter.

7. In the rejoinder filed in 2001 the applicants submitted that the respondents have come out with the list of 167 candidates on 12.1.2000 by further screening of about 513 candidates and about 60 candidates have been so far given appointment from the list.

8. From the facts disclosed above it is clear that loyal quota circular was issued for the employees who worked during the strike period in the year 1974 and benefits as per the Railway Board circular was to be provided at the relevant time. Now after about three decades such relief cannot be granted to the sons some of whom may not be even born at that time.

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9. Further when the bunch of cases were decided, selection process as per notification dated 1.3.1996 had not been initiated and consequently the respondents were directed to consider the names of the applicants of the said O.As. In this case the names of the applicants were screened by the committee, so the order as was passed in the bunch of cases is not required to be passed.

10. Ld. counsel for the applicants has, however, placed reliance on the decision of the Apex Court in the case of Dharmender Kumar Nigam And Others Vs. Union of India & Ors. reported in 1993 SCC(L&S)841 and submitted that by this judgment the Apex Court directed the respondents to include the names of the dependents of loyal employees in the panel. We have gone through this decision. The facts disclosed that the panel was prepared in the year 1984 in which the name of the applicants of the said case were included but the panel was subsequently cancelled. It was in that circumstances that the Apex Court directed the railway authorities to consider the applicants along with other candidates belonging to the same category and to pass appropriate orders. The said decision of the Apex Court clearly differs from the facts of this case and so in time.

11. Learned counsel for the applicant has pressed for a direction to the respondents to consider the applicants' claim in the vacancies notified on 1.2.1999(Annexure 'J' to the R.A.). Learned counsel for the respondents has, on the other hand, very rightly objected that the relief in O.A. is not in respect of vacancies notified on 1.2.1999. We notice that O.A. was filed in 1997 and notification was issued on 1.2.1999. Besides that notification has been brought on record with rejoinder on 3rd December, 2001. The respondents, therefore, had no opportunity to bring on records the facts relating to such notification. The plea as submitted on behalf of the applicant, cannot be considered.

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