A

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.NOs. 470, 551 and 544 of 2004

Thursday, this the 9th day of Decemeber, 2004.

CORAM:

HON'BLE MR A.V.HARIDASAN, VICE CHAIRMAN

HON'BLE MR S.K.HAJRA, ADMINISTRATIVE MEMBER

O.A.470/2004

1. S.Sudarsanan Nair,
Pointsman -I,
Trivandrum Central.

2. A.Sasidharan,
Pointsman-I,
Trivandrum Central.

3. P.S.Varadarajan,
Senior Gate Keeper,
Varkala.

4. M.Aboobackeer,
Pointsman-I,
Alleppey.

5. R.Perumal,
Points-I,
Kottayam.

- Applicants

By Advocate Mr M.P.Varkey

Vs

1. Union of India represented by
the General Manager,
Southern Railway,
Headquarters,
Chennai-600 003.

2. The Senior Divisional Personnel Officer,
Southern Railway,
Trivandrum Division,
Thiruvananthapuram.

3. T.D.Antony,
Gateman Grade-II,
Southern Railway,
Kumbalam Railway Station,
Southern Railway, Ernakulam.

4. A.G.Bhuvanadasan,
Gate Keeper,
Pudukad Railway Station,
Southern Railway,
Thrissur.

5. A.R.Unnikrishnan,
Pointsman Grade-II,
Ernakulam Junction,
Southern Railway,
Ernakulam.

6. T.P.Unnikrishnan,
Pointsman Grade-II,
Guruvayoor Railway Station,
Southern Railway,
Ernakulam.

7. P.V.Preman,
Pointsman Grade-II,
Guruvayoor Railway Station,
Guruvayoor.

- Applicants

By Advocate Mr P.Haridas (R. 1&2)

By Advocate Mr D Sreekumar (R.3 to 7)

O.A.551/2004

1. U.Ramadas,
Sr. Gate Keeper,
Southern Railway,
Idappalli R.S.
Ernakulam.

2. P.Ramadas,
Pointsman-I,
Southern Railway,
Kochi Yard,
Ernakulam.

3. K.M.Ummer,
Pointsman-I,
Southern Railway,
Irumpanam Yard,
Ernakulam.

4. K.S.Chandrakumar,
Pointsman-I,
Southern Railway,
Cochin Harbour Terminus.

5. K.K.Aravindakshan,
Pointsman-I,
Southern Railway,
Irumpanam,
Ernakulam.

6. K.V.Issac,
Pointsman-I,
Southern Railway,
Irumpanam,
Ernakulam.

- Applicants

By Advocate Mr TC Govindaswamy

Vs

1. Union of India represented by
the General Manager,
Southern Railway,
Headquarters Office,
Park Town.P.O.
Chennai-3.

2. The Divisional Railway Manager,
Southern Railway,
Trivandrum Division,
Trivandrum-14.

3. The Senior Divisional Personnel Officer,
Southern Railway,
Trivandrum Division,
Trivandrum-14.

4. The Chief Personnel Officer,
Southern Railway,
Head Quarters Office,
Chennai-3.

5. T.D.Antony,
Gateman Grade-II,
Kumbalam Railway Station,
Southern Railway,
Ernakulam.

6. A.G.Bhuvanadasan,
Gate Keeper,
Pudukad Railway Station,
Southern Railway,
Thrissur.

7. A.R.Unnikrishnan,
Pointsman Grade-II,
Ernakulam Junction,
Southern Railway,
Ernakulam.

8. T.P.Unnikrishnan,
Pointsman Grade-II,
Guruvayoor Railway Station,
Southern Railway,
Ernakulam.

9. P.V.Preman,
Pointsman Grade-II,
Guruvayoor Railway Station,
Guruvayoor.

- Respondents

By Advocate Mr P Haridas (for R.1 to 4)

By Advocate Mr D Sreekumar (for R.5 to 9)

O.A.544/2004

A.S.Ajayan,
Pointsman-I,
Ernakulam North. - Applicant

By Advocate Mr Martin G Thottan

Vs

1. Union of India represented by
the General Manager,
Southern Railway,
Headquarters,
Chennai-600 003.

2. The Senior Divisional Personnel Officer,
Southern Railway,
Trivandrum Division,
Thiruvanathapuram.

3. T.D.Antony,
Gateman Grade-II,
Kumbalam Railway Station,
Southern Railway,
Ernakulam.

4. A.G.Bhuvanadasan,
Gate Keeper,
Pudukad Railway Station,
Southern Railway,
Thrissur.

5. A.R.Unnikrishnan,
Pointsman Grade-II,
Ernakulam Junction,
Southern Railway,
Ernakulam.

6. T.P.Unnikrishnan,
Pointsman Grade-II,
Guruvayoor Railway Station,
Southern Railway,
Ernakulam.

7. P.V.Preman,
Pointsman Grade-II,
Guruvayoor Railway Station,
Guruvayoor. - Respondents

By Advocate Mr P Haridas (for R.1 & 2)

By Advocate Mr D Sreekumar (for R.3 to 7)

The applications having been heard on 2.12.2004, the Tribunal on 9.12.2004 delivered the following:

O R D E R

HON'BLE MR S.K.HAJRA, ADMINISTRATIVE MEMBER

The applicants, who are working as Pointsmen Grade-I and Gate Keepers in the scale of Rs.3050-4590 in Trivandrum Division of Southern Railway qualified in the written examination for the post of Ticket Collectors and Train Clerks. However, orders were issued deleting their names from the list of employees alerted for viva voce for the posts. Aggrieved by this decision, the applicants filed the O.A.s for quashing the orders for deletion of their names for consideration for selection for the aforesaid posts with the direction that they are entitled to be considered for selection for promotion to 33 1/3% quota of the vacancies for the grade of Rs.3050-4590 of Ticket Collectors. As common questions of law and facts are involved in these 3 O.A.s, they being disposed of by this common order.

2. The submissions made on behalf of the applicants are as follows: The applicants, who are working as Pointsman Grade-I/Gate Keeper Grade-I qualified in the written examination for the post of Ticket Collector/Train Clerks. They were called upon to show cause why their names should not be deleted from the list of employees alerted for vice voce. Their representations for reconsideration of this decision were rejected. They were informed by the impugned orders that their names were deleted from the list of employees to be alerted for viva voce. Pointsmen irrespective of their pay scale/class/group are eligible for promotion against 33 1/2% quota of Ticket Collectors/Train Clerks as per rules, orders and avenue chart of promotion. No change is brought about in

this regard by any competent authority. The distinction drawn between Pointsman regularly promoted like the applicants and the Pointsman promoted under cadre restructuring scheme of 1983 is discriminatory and unconstitutional. Had the applicants known that their promotion as Pointsman I would disqualify them for promotion against 33 1/3% quota of Ticket Collectors/Train Clerks, they would not have got promoted as Pointsman Grade-I. Annexure-R1 letter, on which the respondents relied, had not been circulated in Trivandrum Division. Therefore, the applicants were denied the opportunity to plan their career progression. The respondents are estopped from enforcing R-1 in the midst of a selection process for the post of Ticket Collector. Annexure-R2 which was not circulated in Trivandrum Division nor did it amount to revision of relevant avenue chart for promotion as laid down in paragraph 3 of R-1. The Madras Bench of the Tribunal in O.A.No.333/2000 on which respondents relied is distinguishable since the facts and circumstances of that case are different from those of these O.As. and since there are factual errors in the order with reference to Railway Establishment Code and the letter of Railway Board as 30.4.82. The selection of the applicants as Ticket Collectors/Train Clerks cannot held up by uncirculated orders at R-1, R-2 and R-3. This a part, it is unfair to disqualify the applicants for selection, based on orders which were not communicated before the selection was underway.

3. The submissions made on behalf of the official respondents are summarised below: The letter dated 11.8.2000 of the Railway

Board (R-1) makes it clear that those who were promoted to Group'C' in the scale Rs. 3050-4590 in the normal course like the applicants as distinct from restructing and for whom regular avenue for promotion is available are not be eligible for promotion against 33 1/3% quota of Ticket Collectors. The Railway Board is empowered to make rules of general application. Pursuant to the letter of the Railway Board at R-1, the competent authority of Southern Railway notified that Pointsman Grade-I in the scale of Rs.3050-4590 promoted in the normal course as distinct from those promoted due to restructing are not eligible to be considered for selection for promotion to Ticket Collectors/Train Clerks (R-2 and R-3). The Madras Bench of this Tribunal in O.A.333/2000 by order dated 5.5.2002 held that Pointsman A in Group'C' carrying the pay scale of Rs.3050-4590 and enjoying the pay scale of Group'C' are not eligible to be considered for promotion as Ticket Collectors under 33 1/3% quota.

4. We heard both sides and perused the pleadings and material on record. The question whether applicants are eligible to be considered for selection for promotion under 33 1/3% of Ticket Collectors has to be considered in the light of Railway Board order dated 11.8.2000 (R-1). This order makes its amply clear that the employees who get promoted to Group'C' grade of Rs.3050-4500 in the normal course as distinct from restructuring and for whom regular avenue is available are not eligible for promotion under 33 1/3% quota of Ticket Collectors. This order along with consequential orders at R-2 and R-3 was issued before written examinations

for selection to the posts of Ticket Collector against 33 1/3% promotional quota were held on 1.11.2003 to 2.11.2003 and 8.11.2003 in Trivandrum Division. In view of the order dated 11.8.2002 at R-1 of the Railway Board, which is empowered to make rules of general application, the contention of the applicants that they are eligible to be considered for selection against 33 1/3% quota for promotion as Ticket Collectors does not held good.

5. The contention of the applicants that their exclusion from selection to the aforesaid promotional post is arbitrary and discriminatory is untenable. The order at R-1 of the Railway Board excludes Group'C' grade of Rs.3050-4590 promoted in a normal course like the applicants from the promotion as Ticket Collectors under 33 1/3% quota as there was regular avenue for promotion to categories like Switchmen and Shunting Jamadar, etc. in Rs.4000-6000. Thus the exclusion of the applicants from selection as Ticket Collectors which was made keeping in mind their promotional prospects in regular course cannot be termed as arbitrary and discriminatory.

6. The applicants participated in examination for selection for promotion to 33 1/3 quota of Ticket Collectors on account of an error. This error was set right by the respondents by issuing notices calling upon the applicants to show cause why their names should not be deleted from the list of employees alerted for selection. Thus the impugned orders were passed in accordance with the decision of Railway Board at R-1 observing the principles of natural justice.

7. It may be relevant to observe that eligibility of Pointsman Grade-I to promotion as Ticket Collector under 33 1/3% quota was the subject matter of O.A.333/2000 before the Madras Bench of this Tribunal. The Madras Bench held in order dated 6.6.2001 that Pointsman A in Group'C' in the pay scale of Rs.3050-4590 are not eligible for selection to be considered for promotion as Ticket Collector under 33 1/3% quota. The facts of the aforesaid O.A.s are identical with the facts of case before the Madras Bench and we are in agreement with the decision of the Madras Bench of the Tribunal in O.A.333/2000.

8. This apart, the exclusion of the applicant, from selection for the post of Ticket Collector stems from the order dated 11.8.2000 at R-1 of the Railway Board and the consequential orders R-2 and R-3. The applicants had not challenged these orders. That being so, it is not open to them to claim consideration for selection as Ticket Collectors under 33 1/3% quota ignoring the extant orders of the respondents.

9. In view of these facts, we see no reason for giving relief as prayed for in these O.A.s to the applicants. The O.A.s are accordingly dismissed. No costs.

Dated the 9th December, 2004.

Sd/-
S.K. HAJRA
ADMINISTRATIVE MEMBER

Sd/-
A.V.HARIDASAN
VICE CHAIRMAN

trs