

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O. A. No.
T A No
XXXXXX

95/90

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DATE OF DECISION

29-5-91

V.Gopalakrishnan & 14 others .Applicant (s)

M/s K.Ramakumar & Advocate for the Applicant (s)
V.R.Ramachandran Nair
Versus

Union of India (General) Respondent (s)

Manager, Southern Railway, Madras &
3 others.

M/s M.C.Cherian, Advocate for the Respondent (s)
Saramma Cherian & TA Rajan.

CORAM:

The Hon'ble Mr. N.V.Krishnan, Administrative Member

The Hon'ble Mr. A.V.Haridasan, Judicial Member

1. Whether Reporters of local papers may be allowed to see the Judgement?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the Judgement? >
4. To be circulated to all Benches of the Tribunal? >

JUDGEMENT

N.V.Krishnan, AM

The 15 applicants in this case are Corridor Coach Attendants working under the third respondent. Their grievance is that they have not been alerted by the Ann.C order dated 11.1.90 to participate in the test/examination to be held on 3.2.90 for selection for the post of Assistant Guard. They, therefore, seek a declaration that they are eligible to be considered for participating in that examination and a direction to the respondents to allow them to participate in that examination.

2. The brief facts leading to this application are stated below:

2.1 The applicants were originally in the cadre of Porters, Sweeper-cum-Porters. Admittedly, they were sent as

Corridor Coach Attendants, which are ex-cadre posts.

2.2. It is claimed that instructions were issued on 19.12.88 (Annexure-A) by the first respondent which read as follows:

"It has been represented that the First Class Corridor Coach Attendants (FCCAs) in scale Rs. 775-1025 and 800-1150 are not included in the list of volunteers called for to fill up the vacancies of Assistant Guards even though they are drafted from the cadres of Porter/SCPs in scale Rs 750-940 and 775-1020.

The posts of FCCA are ex-cadre posts and the incumbents are drawn from the volunteers of Porter/SCPs with VIII Std. qualification and who have an aptitude for working as FCCA.

In the avenue chart of Asst. Guards communicated under this office letter No.P(S)529/II/Avenue Charts/ Cl.IV dated 29.6.88, volunteers from Porters/SCPs are also considered for promotion to the post of Asst. Guards, if sufficient No. of volunteers from GM/PM/LM/C.man in Gr.I and II are not forthcoming. The FCCAs drawn from the cadre posts of Porter/SCPs, should therefore be considered for the promotion to the posts of Asst. Guard maintaining the seniority of "cadre" posts wherever this is not followed.

This equally applies to Gr.D to Gr.C quota of vacancies in the categories of TC/TNC."

These instructions clarify that First Class Corridor Coach Attendants (FCCA) are entitled to be considered for selection as Assistant Guards.

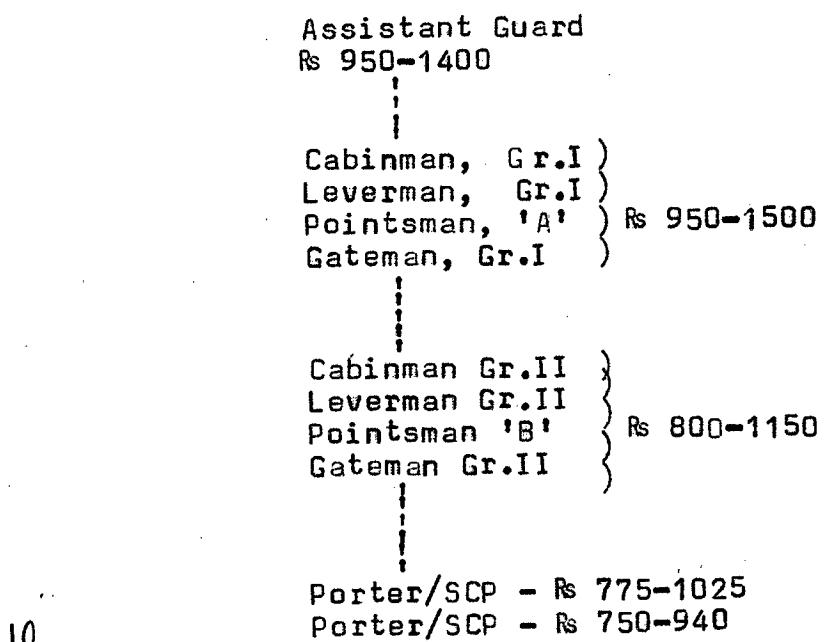
2.3 This has been given effect to in the Annexure-A notice dated 7.7.89 issued for selection to the post of Assistant Guards. That notice stated that selection would be made from the following categories from among whom names of volunteers have been called:

- 1. Offg. Cabinemen/Gr.I,
Levermen/Gr.I, Pointsman/A,
Gatemen/Gr.I. : In scale
Rs 950-1500
- 2. Cabinmen/Gr.II,
Levermen/Gr.II,
Pointsman/B, Gatemen Gr.II : In scale Rs 800-1150.
- 3. CCA in scale Rs 800-1150/Rs 775-1025
- 4. Porters/SCPs in scale Rs 775-1025/750-940.

This notice concludes by stating that "volunteers from Porters/SCPs will be considered only if sufficient number of volunteers from Cabinmen, Levermen, Points-men, Gatemen in Grade I and II are not available for selection to the post of Assistant Guard". The applicants contend that the aforesaid stipulation does not apply to FCCAs and that they should have been considered along with others in the category (1) and (2) of the above extract.

2.4 They also submit that the persons who have been alerted for selection by the Ann.C letter include persons who are junior to them and hence they should also be considered for selection.

3. The respondents have filed a reply denying that the applicants are entitled to any relief. They submit that the post of Assistant Guard is a promotion post based on selection. The selection examination is to be conducted in terms of para 109 read with para 216 under section B of Chapter II of the Indian Railway Establishment Manual as modified from time to time. The feeder category posts for such promotion is as shown in Exbt. R1A which is as follows:



It is submitted that there were 64 vacancies and hence 3 times the number of volunteers had to be called. According to para 216 of the Manual, if sufficient number of volunteers are available from the senior-most feeder category, volunteers from the lower category need not be called. It is stated that in the present case there were 200 volunteers from the category of Cabinman Grade-I/ Leverman Gr.I/Pointsman Gr.A (i.e. category 1 of the extract at para 2.3) besides 267 volunteers from the second category. Therefore, only volunteers from the first category were alerted for the examination. This is clear from the Ann.C letter.

4. The respondents also contended that the applicants continue to belong to Porter/Sweeper-Cum-Porter category and the persons invited by the Ann.C memorandum are all seniors to them. It is also stated that the juniormost employee who had participated in the selection conducted in pursuance of the Ann.C notice was one Shri S.K. Kandaswamy who was appointed as a Porter on 17.2.79, promoted as Pointsman B on 25.11.84 and promoted as Pointsman A on 16.9.88. In accordance with the interim direction given by the Tribunal the applicants were also permitted to appear in the examination. However, all, excepting the 7th and 10th applicants have failed. The 7th applicant, P.Karunakaran entered as Porter only on 18.8.82 and the 10th applicant, Selvaraj, entered as Porter on 12.9.79. Thus, both of them are junior to the juniormost participant in the examination in the category of Porter. That apart, the applicants are still only porters on deputation to the ex-cadre posts of First Class Coach Attendants and are not Pointsmen in the higher category. It is contended that in these

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circumstances the applicants are not entitled to any relief.

5. We have perused the records and heard the counsel on both sides. The learned counsel of the applicants submits that the Ann.A instructions have been misconstrued by the respondents. According to him, the objective of Ann.A is to ensure two things: (i) that the FCCA are also considered for selection to the post of Assistant Guard and (ii) that while considering their names they should be considered maintaining their seniority in the cadre posts. He submits that juniors to the applicants in the cadre of Porters/Sweeper-cum-Porters have successively been promoted to the second category (Cabinman Gr.II) Leverman Gr.II, Pointsman Gr.B, Gateman Gr.II) and further promoted to the first category, i.e. Cabinman Gr.I, Leverman Gr.I, Pointsman Gr.A, Gateman Gr.I. Therefore, the applicants too should be deemed to have been promoted either to the second or first category as the case may be, depending on the post held by their juniors, in order to/

6. On the contrary, the respondents contend that the purpose of Ann.A circular is totally different. It is stated that persons from the cadre of Porters sent to the ex-cadre posts of FCCA normally do not return to the cadre at all. This is due to the fact that the post of FCCA is more attractive and covetable than the other promotion posts of Pointsman, Cabinman, Leverman and Gate Keeper available to Porters. The FCCA's work is not only light but also more remunerative as FCCAs have the advantage of getting more than Rs. 20 as TA/DA per day. Therefore, Porters who volunteer to go as FCCA normally seek further promotion in the Group C post of Ticket Collectors by participating in the examination for promotion from

assess their relative seniority for selection.

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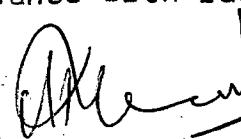
Group D to Group C for which purpose 33-1/3 % vacancies are reserved. The Annexure-A circular only clarified that in addition to this avenue of promotion, the FCCAs are also to be considered for promotion to the post of Assistant Guard maintaining their seniority in the cadre posts. As the applicants are only Porters, their seniority in the cadre of Porters only can be counted for this selection,

7. We are of the view that the respondents have not committed any mistake in interpreting the Annexure-A. In Both in para 1 and para 3 of Annexure-A it is stated that the FCCA are drafted from the cadres of Porters/SCPs. Therefore, so long as a person is working as a FCCA, there is a presumption that he belongs to the cadre of Porter/SCP only. If a FCCA is promoted to the second grade and promoted as Pointsman B/Gateman Gr.II, Leverman Gr.II, he cannot thereafter, continue as a FCCA. That post can be filled up only from the cadre of Porters and not from any higher category of post. If a FCCA is promoted, he will have to be reverted to the parent cadre to the post in the second category. Obviously, the persons who have been called for selection by the Ann.C letter dated 11.1.90 are holding posts in the first grade only. i.e. Cabinman Gr.I/Leverman Gr.I/ Pointsman Gr.A/Gateman Gr.I. They may have started their career as a Porter and may even have been junior to the applicants. But that is irrelevant because at present they hold posts in the first grade while the applicants are still in the cadre of Porters/SCPs but deputed as FCCAs. Therefore, the applicants cannot claim seniority over those who were alerted by Ann.C.

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8. We are also of the view that the respondents called are correct in stating that the volunteers from category-I are more than sufficient for the purpose of selection, because there are 200 such volunteers whereas only 192 are to be considered. Only if adequate number of volunteers were not available from the first grade, volunteers from the second grade would have been chosen. It is only thereafter that the chances of Porters/SCPs including FCCAs would arise. That is not the situation here. For the 64 posts, more than 3 times that number of volunteers are available from the first grade itself. Therefore the question of considering others from the other lower grades does not arise. In the circumstances, this application is misconceived and it has to be rejected and we do so.

9. We make it clear that this judgement will not stand either in the way of the applicants from applying for reversion to the parent cadre and fixation in the second or first category of higher posts in that cadre, or in the way of the respondents from dealing with such representations if filed and disposing them of in accordance with law.



(A.V. Haridasan)
Judicial Member



(N.V. Krishnan)
Administrative Member

29/5/91