

Central Administrative Tribunal, Lucknow Bench, Lucknow

Original application No. 496/2003

this the 22nd day of October, 2003

HON'BLE SMT. MEERA CHHIBBER, JM

HON'BLE MR. S.P. ARYA, AM ✓

1. Chandra Singh Thapa, aged about 51 years son of late Ram Bahadur Thapa, resident of House No. 549/297, Shanti Nagar, Bara Barha, Alambagh, Lucknow.

2. Malkeet Singh aged about 45 years son of Sant Singh resident of Quarter No. E-9/L, Punjab Nagar Colony, charbagh, Lucknow.

...Applicants

By Advocate: Sri R.K. Upadhyaya,

Versus

1. Union of India through the General Manager, NR, Baroda House, New Delhi.

2. Divisional Railway Manager, NR, Hazratganj, Lucknow.

3. Senior Divisional Electrical Engineer, NR, Hazratganj, lucknow.

4. Senior Divisional Personnel Officer, NR, Hazratganmj, Lucknow.

5. Assistant Personner Officer, NR, Hazratganj, Lucknow.

6. Sri Harish Chandra Bajpayee, ACF-II, NR, AC Coaching, Charbagh, Lucknow.

...Respondents

By Advocate: Sri Arvind Kumar

ORDER (ORAL)

SMT. MEERA CHHIBBER, JM

By this Original application, applicants have sought the following reliefs:-

a) To issue an order or direction quashing the impugned order dated 25.4.2003 passed by the opposite party No. 5 as contained in Annexure No. 5 to this O.A.
To issue an order or direction, directing the



opposite parties No. 1 to 5 to give same benefit to the applicants which was given to the opposite parties No. 6 and 7 along with seniority.


c) To recall the order dated. 4.2.1993 passed in O.A. No. 248/1989 and direct the opposite parties No. 1 to 5 to promote the applicants as A.C. Fitter III under 25% talented quota w.e.f. 12.12.1984 on which date the applicants were declared successful in the written examination.

d) Any other relief which this Hon'ble Tribunal may deem just and proper in the circumstances of the case may also be allowed to the applicants.

e) To allow the O.a. and award costs in favour of the applicants.

2. This O.A has been filed by two applicants who have sought permission of the court for filing the joint application. M.P. is allowed. Registry is directed to give number to this O.A. before issuing the order.

2 A. The grievance of both the applicants in this case is that they had initially been appointed as Khalasis(Electrical) in the year 1978 and 1980 respectively. They were further promoted as AC helper in the year 1982 and 1984 respectively whereas respondents No. 6 and 7 were appointed as Khalasi (Electrical) in 1981 and January, 1980 respectively and were promoted as AC Khalasi subsequently in the year 1983, applicants as well as respondents No. 6 and 7 had appeared in the written test for the post of AC fitter against 25% talented quota. The result were declared on 12.9.1994 when applicnts as well as respondents No. 6 and 7 all were declared successful in the written examination but due to some reasons viva voce could not be held in time and was postponed from time to time. In the mean time applicants became entitled for promotion on the basis of seniority as such they were promoted in normal course in the year 1987. Respondents No. 6 and 7 were junior to them as Khalasis. Ultimately viva voce test was held in 1988. Thereafter, applicants as well as respondents No. 6^{and} 6/



7 both filed different OAs seeking promotion from 1984 to the post of AC Fitter Grade III. Applicant had filed O.A. No. 248/1989 whereas respondents No. 6 and 7 had filed O.A. No. 247/1989.

3. It is submitted by the applicants that their O.A. No. 248/1989 was rejected vide order dated 4.2.93 (page 90) but O.A. filed by the respondents No. 6 and 7 which who were also similarly situated as applicants, their O.A. was allowed vide order dated 8.5.2000 by a different bench (page 21). In the said order Tribunal had directed the respondents as follows:-

(a) The respondents shall give the benefit of promotion to the applicants with effect from 12.12.1984 i.e. three months after the date of announcement of the results of the written examination i.e. 12.9.1984.

(b) Seniority will be given to the applicants for all purposes, including fixation of pay. But the applicants will not be entitled for any arrears of pay and allowances from 12.12.1984 and monetary benefits will be given only from the date of actual or promotion."

4. On the basis of the said judgement, respondents issued the order dated 25.4.2003 revising the seniority of respondents No. 6 and 7 at S.No. 6A and 6B. It is this ~~order~~ ^{order 8} which has been challenged by the applicants in the present O.A. on the ground that since applicants as well as respondents No. 6 and 7 were both similarly situated, Tribunal could not have passed different orders in both the OA specially when it has affected the seniority of applicants who were through out senior to respondents No. 6 and 7 ~~onwards~~ but now in view of the fact that their OA has been decided ^{favourably} they have been placed above the applicants. Applicants have therefore, asked for recalling the order dated 4.2.1993 passed in their O.A No. 248/1989 and for quashing of the order dated 25.4.2003 which has been passed in pursuant to the direction given by the Tribunal in the case filed by respondent No. 6 and 7.



5. Counsel for the applicant vehemently argued that since the applicants have been discriminated against by none else but by the Tribunal itself and injustice is being done to them therefore, this Tribunal should entertain their O.A. and do justice with them.

6. We have heard the counsel for the applicants at some length but we are sorry to say that even if we are convinced that injustice has been done to the applicants yet we cannot entertain the present O.A. as it is not maintainable. Since both the orders in O.A. No. 248/89 and 247/1989 have been passed by the coordinate benches of this Tribunal, we cannot sit in appeal over the orders passed by a coordinate bench. If applicants are aggrieved either they should have filed review or challenged these orders before the Hon'ble High court. Judicial discipline restrains us from making any comment on the orders passed by another bench so O.A. in the present form is not maintainable as applicants have sought recalling of the earlier order passed by this Tribunal, therefore the same is dismissed with no order as to costs. However, liberty is given to the applicants to seek redressal of their grievance in the appropriate proceedings.


MEMBER (A)


MEMBER (J)

LUCKNOW:DATED: 22.10.2003

HLS/-