

CENTRAL ADMINISTRATIVE TRIBUNAL, LUCKNOW

O.A.no. 484/04

Lucknow this the 13th day of January, 05.

HON. SHRI SHANKER RAJU, MEMBER(J)

HO. SHRI S.P. ARYA, MEMBER(A)

1. Ashok Kumar Yadav, aged about 40 years, so of Sri Ram Ashish Yadav r/o C-74/1 Manak agar, RDSO Colony, Lucknow.
2. Radhey Shyam Tripathi aged about 39 years son of Shri D.S. Tripathi, R/o C-54/1, Manak Nagar RDSO Colony, Lucknow.
3. Yogesh Chandra Prasad aged about 38 years s/o Sri U.C. Prasad R/o B-112/7 Manak Nagar RDSO Colony Lucknow.
4. N. Sen Gupta aged about 37 years son of late D.N. Sen Gupta R/o B-90/1, Manak Nagar TDSO Colony Lucknow.
5. Zahirul Hasan aged about 50 years s/o late Amir Hasan R/o B-29/3 Manak Nagar RDSO Colony Lucknow.
6. Sajay Prabhakar aged about 34 years so of late D.P. Prabhakar r/o D-144, Sector D, LDA Colony Kanpur Road, Lucknow.

Applicants.

By Advocate Shri A. Moin.

versus

1. Union of India through Secretary, Railway Board, New Delhi.
2. Financial Commissioner (Railways) New Delhi.
3. Director Pay Commission-II Railway Board New Delhi.
4. Director General, R.D.S.O. Lucknow.

Respondents.

By Advocates:

For Official respondents: Shri Arvind Kumar.

For intervener: Shri J.P. Mathur.

O R D E R (ORAL)

By Shanker Raju Member (J)

The applicant has assailed para 12 of the Railway Board order dated 12.4.2003 whereby restructuring has been ordered in Group C and D cadres of RDSO. R.D.S.O. has been brought as per para 9.1.1 at par with the other zonal Railways and restructuring applied therein would mutatis mutandi apply to RDSO.

2. Para 9.1.1 is reproduced below:

The Ministerial cadre should be brought on par with the pattern of Zonal Railways/ Production Units and posts distributed in accordance with the percentage distribution prescribed for zonal Railways/ Production Units as indicated in Annexure-'C'. As a result of this, the existing LDCs in grade Rs 3050-4590 will be redesignated as Jr. Clerks in the same grade. On vacation of the posts by the existing incumbents due to natural wastage (promotion, retirement, resignation etc.) the post of Jr. Clerks in the grade Rs 3050-4590 will be operated in accordance with the revised percentage distribution of posts prescribed. The grade Rs 4000-6000 being operated for Upper Division Clerks will be abolished and replaced by the grade Rs 4500-7000. Besides additional grades Rs 5000-8000 and 7450-11500 will be operated in the cadre. Accordingly the employees working as UDCs grade Rs 4000-6000 will be placed enbloc in grade Rs 4500-7000 with fixation of pay as admissible under the normal rules. They will seek further promotion to grade Rs 5000-8000 as Head Clerks as per normal procedure. The existing Assistants in grade Rs 5500-9000 will be redesignated as office Superintendent II in the same grade as Group 'B' (non-gazetted) as personal to them retaining their existing status. They will seek further promotion to grade Rs 6500-10500 and then the grade Rs 7450-11500.

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Since the existing Section Officers in the grade Rs 6500-10500 have been granted the scale of Rs 7500-12000 provisionally on the strength of the Court judgment, they will continue to hold the grade Rs 7500-12000 in the gazetted capacity provisionally subject to the final outcome of Writ petition No. 3866/98 filed by the Administration in the Hon'ble High Court at Delhi. On vacation of the posts in grade Rs 6500-10500/7500-12000(Provisional) due to retirement, promotion etc. of the present incumbents these posts will be operated in grade Rs 6500-10500 and 7450-11500 in Group 'C' as per prescribed percentages. Similarly, the posts of Assistants in grade Rs 5500-9000 on being vacated by the existing incumbents will be treated as Group 'C' posts. While introducing the grade structure of the Ministerial cadre on par with the Zonal Railways/Production Units the existing recruitment pattern, educational qualification, channel of promotion etc. shall stand modified so that the same is on par with the Zonal Railways/Production Units pattern."

3. In the light of the above para, the LDCs working will be redesignated as Junior Clerks and U.D.Cs would become Senior Clerks in the pay scale of Rs 4500-7000. Thereafter additional grades Rs 5000-8000 and 7450-11500 with two promotional avenues.

4. The learned counsel for the applicant states that if promotion to Headclerk has an element of restructuring, in that event the decision of the apex court in All India NON-SC/ST EMPLOYEES' ASSOCIATION (Railways) vs. V.K. Agarwal and others (2001) 10 SCC 165 and in the case of N.K. Saini provides that no reservation in upgradation would be applicable.

4. The learned counsel for the applicant further states that on a reference to the DOPT in view of the letter dated 25.10.04, it has

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been advised to the Railways that where restructuring has resulted in upgradation, reservation would not apply. However, this has been controverted by the learned counsel for the respondents by stating that this advice has further been redirected to the DOPT and is still awaited.

5. Intervener counsel has also opposed the contention of the learned counsel for the applicant.

6. In nut shell, the present controversy would be resolved in the light of the respondents stand that promotion of Head Clerks would not involve any element of restructuring and would be on normal selection procedure and the rules of normal promotion would hereinafter apply as per normal procedure in view of para 9.1.1 of the Railway Board letter. This stand of the respondents is on the basis of the documents and pleadings taken thereof. Accordingly, the contention of the respondents' counsel is to this effect.

7. In this view of the matter the apprehension of the applicant and his relief that Senior Clerks be accorded benefit of restructuring for promotion to Head Clerk is misconceived.

8. In the result, the O.A. stands disposed of with the observation on the basis of what transpires between the parties and particularly the stand taken by the respondents that while promoting Senior Clerks as Head Clerks there would not be an element of restructuring, rather the promotion would be as per normal procedure *No Casts.*

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(S.P. ARYA)

Member (A)

S.A.

S. Raju
(SHANKER RAJU)

Member (J)