

CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH

O.A.No.492/92

Wednesday this the 9th day of February, 2000

CORAM

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

HON'BLE MR. J.L. NEGI, ADMINISTRATIVE MEMBER

1. Surya Nath, aged about 38 years permanently working as C.B.O. under Coaching Depo. Officer. N.R.Lucknow.
2. R.A.Ram, aged about 41 years presently working as C.F.O under Coaching Depo Officer, N.R Varanasi. Applicants

(By Advocate Mr. Ajmal Khan)

V.

1. Union of India through Secretary Ministry of Railway, Rail Bhawan, New Delhi.
2. General Manager (P) Northern Railway Baroda House, New Delhi.
3. Divisional Railway Manager (NR) Divisional Office, Hazratganj, Lucknow.
4. Sr.Divisional Personnel Officer (NR) Divisional Office, Hazratganj, Lucknow... Respondents

(By Advocate Mr A.K.Chaturvedi)

The application having been heard on 4.2.2000, the Tribunal on 9.2.2000, delivered the followings

O R D E R

HON'BLE MR. J.L. NEGI, ADMINISTRATIVE MEMBER

The applicants two in number are aggrieved by Annexure.A order passed by the 4th respondent vide which their promotion to the post of HTRR with effect from 20.6.84 and 22.6.84 was withdrawn and allowed promotion after completion of two years with effect from 20.6.96 and 22.6.86.

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2. The reliefs sought by the applicants are as under:-

"(a) to quash the impugned order dated 28.8.1992 passed by respondent No.4.

(b) To pass any such and further order which this Hon'ble Tribunal deem fit in circumstances of the case."

3. The facts of the case are that the applicants were appointed as Apprentice TXR (Train Examiner) on 23.2.92 and 30.4.92 respectively and were regularised as TXR on 20.6.84. Both the applicants belong to Schedule Caste. The Railway Board through letter dated 16.11.94 issued a direction to all the Railways that restructuring should be done and persons eligible for upgradation will be given promotion in the next higher grade (Annexure.B). The applicants alleged that they being the members of Scheduled Castes were promoted against reserved quota on 14.2.85 and restructuring benefit was allowed to them from 20.6.84 ie., the date they became regular.

4. In May, 1992 URMU challenged the promotion of the applicants before the respondents numbers 3&4 stating that the applicants were wrongly promoted as HTXR and they have been given restructuring benefit with effect from 1.1.84. The respondents considered the representation made by the URMU and noticed that the applicants were wrongly promoted as they had not completed two years of regular service as Train Examiner. The respondents rectified the alleged error and withdrew the promotion of the applicants to the post of HTXR with effect from 20.6.84 and 22.6.84. They were allowed promotion after completion of two years in grade 625-700 with effect from 20.6.86 and 22.6.86 (Ann.A).

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5. It has been submitted by the applicants that the Union had wrongly placed the facts before the respondents whereas the applicants have been given the restructuring benefit with effect from 20.6.84. Moreover, the applicants being members of Scheduled Castes were promoted against reserved quota on 14.2.85. It was also submitted that the respondents had raised the issue stating that the applicants belong to the safety category and completion of two years service was essential for promotion whereas it was not binding as there is a specific Railway Board order on the point that in case of promotion to safety category against the vacancies covered by restructuring a competency certificate is necessary if the condition of two years service is not satisfied. Thus the applicants sought quashing of Annexure.A and restoration of their earlier promotion.

6. The respondents on the other hand vehemently opposed the application and stated that the applicants were initially appointed as Train Examiners with effect from 20.6.84 and accordingly they had joined on the said post. They were eligible for promotion to the next higher cadre only on completion of two years service as Train Examiner. Due to administrative error, the applicants were inadvertantly given promotion on account of the restructuring of cadre with effect from 20th and 22nd June, 1984 ie., the date of their initial appointment as Train Examiner. When the error came to the notice of the administration it was rectified and their promotion w.e.f. 20th and 22nd June, 1984 had been withdrawn but no recovery has been made. It was also stated that the applicants have been accordingly now promoted with effect from 20th and 22nd June, 1986 respectively ie.,

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on completion of two years regular service as Train Examiner. It was also submitted that an administrative error can be rectified by the administration as and when the same is pointed out.

7. We have heard the learned counsel for the applicants and the respondents. It is an admitted fact that the applicants were not on the roll as TXR on 1.1.84 as they were appointed much later i.e., on 20.6.84 and 22.6.84. It has been clearly mentioned that the benefit of restructuring can only be granted to those who have completed two years in the grade of Train Examiners and was on roll on 1.1.84. As the Train Examiners belong to the safety category they could have been promoted only after two years of service as Train Examiners. As mentioned above by the respondents it was an administrative error and the respondents rectified the error by withdrawing the applicants' promotion w.e.f. 20.6.84 and 22.6.84 immediately after knowing the error. The administrative error can be set right whenever the same is detected. In this particular case the applicants had not completed two years service as Train Examiners on the date of their ^{earlier} promotion and the respondents allowed their promotion only after completion of two years i.e., on 20.6.86 and 22.6.86.


8. The applicants' plea that they were promoted against a reserved quota and also after allowing restructuring benefit w.e.f. 20.6.84 has no weight as their entitlement for promotion against reserved quota becomes due only after they fulfil the minimum eligibility condition i.e., completion of

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two years as Train Examiners. No doubt the respondents have rectified the error after a lapse of eight years and no show cause notice has been given to the applicants, but in their case no recovery of arrears have been made and only year of promotion has been changed. Since this error has been set right and applicants were given promotion w.e.f. the due date, the applicants have no legitimate cause to adjudicate.

9. In view of the facts mentioned above, we do not find any merit in the application and the same is dismissed without any order as to costs.

Dated the 9th day of February, 2000


J.L. NEGI
ADMINISTRATIVE MEMBER


A.V. HARIDASAN
VICE CHAIRMAN

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