

CENTRAL ADMINISTRATIVE TRIBUNAL

LUCKNOW BENCH:LUCKNOW

ORIGINAL APPLICATION NO.616/1992

This the 30th day of October, 2001

HON'BLE MR. A.K.MISRA, MEMBER(A)
HON'BLE MR. KULDIP SINGH, MEMBER(J)

1. Govind ji Srivastava, aged about 46 years, son of Sri A.C.L.Srivastava, resident of Bunglow No.T-5 Railway Station Colony Faizabad, presently functioning as Chief Signal Inspector in the office of the Senior Divisional Signal Telecommunication Engineer, N. Railway, Lucknow.
2. Ravi Chandra Kishore, aged about 50 years, son of late Sri B.K.Srivastava, resident of Type IV/7-B Johan Road, C-harbagh, Lucknow, presently functioning as Chief Signal Inspector (R.R.I) in the office of Senior Divisional Signal and Telecommunication Engineer N.Railway Lucknow.
3. Krishna Kumar Saxena, aged about 47 years, son of Sri B.K.Saxena, resident of 27 Railway Colony, Etawah, presently working as Signal Inspector(D) Etawah in the Divisional Office of D.S.T.E., N. Rly, Allahabad. ...Applicants.

(By advocate: Shri O.P.Srivastava)

Versus

1. Union of India, through
General Manager, N. Railway,
Headquarters Office, Baroda House,
New Delhi
2. General Manager(P), N.Railway,
Headquarters Office, Baroda House,
New Delhi. ...Respondents.

(By Advocate: Shri D.P.Srivastava)

ORDER

By Mr. Kuldip Singh, Member(J).

Applicants, four in number, are aggrieved by letter dated 1.10.92 issued by respondents for holding the selection for promotion to Grade 'B' services in Signal and Telecommunication Department for the post of Assistant Signal and Tele-communication Engineer(in short ASTE) against 75% quota, ignoring the applicants, who claims to be

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senior and within the zone of consideration.

2. The case of the applicants no.1 is that he had joined as Assistant Signal Inspector somewhere in the year 1967 and Applicant No.2 had joined in June, 1961. They were promoted as Signal Inspector Grade-II and thereafter as Grade-I. Besides, the Signal Inspector grade-I, there are three cadres which are feeder cadres for the same posts of ASTE group-B. Those cadres are that of Telecommunication Inspector grade-I, Draftsman grade-I and Chargeman grade-I.

3. Applicants further submit that vide letter dated 1.10.92, the department decided to conduct a Departmental Competitive Examination for the post of ASTE against 75% quota for promotion. They are required to prepare a list of eligible candidates who could appear in the same examination and though the decision to conduct the examination was taken by letter dated 1.10.92 yet the department had not prepared any combined seniority list of the four feeder cadres in accordance with rules, without even affording an opportunity to the applicants before inviting applications for the impugned selection. Even the seniority list on Signal Inspectors Grade - II was never prepared. Respondents had issued integrated seniority list on 6.2.93 which has been prepared after the impugned Notification dated 1.10.92, which has not been prepared on the basis of the seniority list of Signal Inspector Grade-I but it has been prepared on the

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basis of the total length of service in various grades. On that basis the said integrated seniority list, it is submitted that the same is wholly illegal and not tenable in the eyes of law as applicants were not included in the selection on the basis of the disputed seniority list while junior to the applicants, namely, Shri S.R.Chatterjee was considered and promoted.

4. Hence, it is prayed that this Tribunal may quash the letter dated 1.10.92 with a further direction to the respondents to prepare a combined seniority list on the basis of their appointment in grade-III posts after affording opportunity to all the concerned and thereafter call them for selection to make promotions to group 'B' services in Signal and Telecommunication Department for the post of ASTE or in the alternative respondents be directed to prepare a seniority list of Signal Inspector grade-II on the basis of date of vacancy on which they were promoted after affording an opportunity to all concerned and thereafter on that very basis, the seniority list of Signal Inspector Grade - I be prepared and thereafter a combined list of Signal Inspector Grade - I, Telecommunication Grade - I, Draftsman Grade - I, Chargeman Grade - I be prepared accordingly and then the candidates be called to appear in the Departmental Competitive Examination.

5. The respondents are contesting the OA by filing the counter affidavit. They have submitted that in order to hold selection for the post of ASTE

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group 'B' services, the seniormost employees in the category of Signal Inspector, Draftsman-I, Chargeman were called on the basis of their length of service in the grade of Rs.700-900/2000-3200. It is specifically denied that "pick and choose method" was adopted by the respondents against 75% quota without preparing any combined seniority list.

6. It is further submitted that notice dated 1.10.92 was issued by the GM(P) calling the candidates to appear in the selection for ASTE Group 'B' but the selection was postponed due to some discrepancies in the seniority list. Thereafter combined seniority list was prepared and circulated on 20/24.11.92 and objections were invited from the staff concerned. The representations received from the staff concerned in this connection were examined and a fresh combined seniority list was also prepared and circulated on 6.1.93 against which no representations were received and the written test for ASTE had been conducted on 21st Feb.1993. It is submitted that applicant No.1 has been promoted as Signal Inspector Grade I in the grade of 2000-3200(R.P.S.) w.e.f. 1.1.84 in the cadre restructuring Scheme. It is further submitted that one Purushotam Saxena Signal Inspector grade II had filed a Writ Petition No.5431/84 before the Allahabad High Court which was transferred to this Tribunal and was registered as TA 1511/87(T) which had also been decided. As a result of this judgement in TA 1511/87(T) names of Shri Purushotam Saxena and other Signal Inspectors were interpolated in the list of

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promotees as S.I Grade - I. Consequently, the names of 12 junior persons, including the applicants were deleted from the list and as such their names did not figure in the list of eligible candidates of ASTE group 'B' services.

7. We have heard the parties and gone through the records.

8. Learned counsel for the applicants submitted that when the respondents have conducted selection for promotion to group 'B' services for the post of ASTE, a list of eligible candidates was required to be prepared or published along with the said notice, but the list admittedly could not be published by the respondents and the same had to be modified and as such the examination was postponed. Learned counsel for the applicants has also invited our attention to the combined seniority list of seniormost S & T staff for the selection for the post of Class II services (Annexure-5) dated 6.1.93, according to which one Shri S.R.Chatterjee shown at Sl. No.122, has been shown as eligible for the post but the applicants' names have not been included in the list. The counsel for the applicants has referred to Annexure-8 which shows that Shri S.R.Chatterjee is junior to the applicants.

9. Learned counsel for the applicants further submitted that the respondents had not prepared the seniority list in accordance with the length of service or with regard to seniority of

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eligible candidates in accordance with Rules in all the grades from the date of appointment to the grade of Rs.700-900. In their supplementary, counter respondents have submitted that as per the instructions of Railway Board vide letter dated 5.3.83 the procedure with regard to the preparation of integrated seniority list had been modified and now the integrated seniority list of the staff in the grade of Rs.700-900 and above is to be determined on the basis of their total length of service or in all the grades from the date of their appointment to grade of Rs.700-900. Relying on this learned counsel for the respondents submitted that vide letter of Railway Board dated 5.3.83 seniority can be determined either on the basis of their total length of service in any or all the grades from the date of their appointment. So the depts. while preparing the integrated list had followed the procedure in accordance with these instructions and as such no discrepancy can be found since objections were invited before rectifying the seniority list and no objections were received, hence the applicants cannot challenge the same now.

10. We have also seen the integrated seniority list and we find that Shri S.R.Chatterjee had been placed in Signal Inspector Grade II in November, 1969 and continued in the Grade II which has been upgraded with SI II and I vide order dated 31.10.84. All the applicants had joined in Signal Inspector grade III prior to Shri S.R. Chatterjee and they also got grade II prior to Chatterjee but

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all of them got grade I and that too only after restructuring w.e.f. 1.1.84 and not only that there are many other employees who have joined services as SI grade III much later than the applicants, but their names had been shown in the integrated seniority list whereas name of the applicants had not been shown. Shri Chatterjee as SI who joined in Nov. 1969 whereas there are other persons who joined in 1974 and 1968 and their names have been shown in the integrated lists and from the reply of the respondents it is not clear as to what criteria they had adopted for preparing the integrated list.

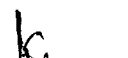
11. Though the learned counsel for the applicant submitted that while determining the seniority the total length of service of any employee in any or all grades from the appointment grade Rs. 700-900 could be taken to this extent properly but it must be clarified by the Deptt. as to what criteria has been adopted by them in preparing the integrated seniority list and they will have to specify that while determining the seniority on the basis of total length of service which grade they have taken into consideration either it is any single grade or it is from all the grades. whether they have taken total length of single grade or all the grades from the date of appointment to grade 700-900.

12. Besides that since the seniority list filed on record vide Annexe 5 dated 6.1.93 shows that there are various persons who joined as SI grade III in the year 1973 to 1977, etc who have been shown in



the integrated seniority list but the names of the applicants had been shown in the third list though they have joined SI in the year 1967 and one of them joined 1961, so we find that names of the applicants have been wrongly deleted from the said combined seniority list. Moreover, vide Annexure-8 dated 31.10.94 issued by the Headquarter Baroda House, it is made clear that R.C. Kishore's dispute with regard to the seniority list had been corrected and Chatterjee had been placed below to Saxena, on that score seniority list needs to be corrected again and the names of the applicants are to be reflected therein. In view of above, we find that the seniority list has not been prepared in accordance with Railway Board's instruction dated 5.3.1983. Hence the said list is liable to be quashed and OA deserves to be allowed.

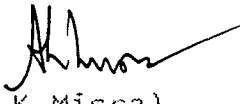
13. As such we allow the OA and the selection held to the post of Group 'B' service in the Signal and Telecommunication Department for the post of Assistant Signal and Telecommunication Engineering against 75% in pursuance of the letter dated 1.10.92 issued by the respondents is hereby quashed and since the Notification dated 1.10.92 for holding the examination had been issued without having the proper eligibility list is itself liable to be quashed being bad in law. The same is being quashed.



14. Consequently, the promotion made in pursuance of the selection held under letter dated 1.10.92 are also quashed. The respondents are further directed to prepare a fresh eligibility list in accordance with the rules and instructions on the subject, including the Railway Board Circular dated 5.3.93 within a period of four months from the date of receipt of a copy of this order and then hold the selection afresh.

15. However, since certain officials have been promoted in pursuance of the selection held as per the letter dated 1.10.92, so in order to avoid any Administrative disturbance so they will continue to work on the higher post and shall be treated as if they are working on adhoc basis till the fresh selection is held in accordance with the directions given above. No costs.


(Kuldip Singh)
Member (J)


(A.K. Misra)
Member (A)