

CENTRAL ADMINISTRATIVE TRIBUNAL

LUCKNOW BENCH

LUCKNOW

Original Application No. 162/90

M.S. Usmani and others

Applicants.

versus

Union of India & others

Respondents.

(2) O.A. No.28/90

D.K. Khare and others

Applicants.

versus

Union of India & others

Respondents.

Shri P.K. Khare,

Shri P.S. Mehra

Shri K.P. Srivastava Counsel for Applicants.

Shri Arjun Bhargava Counsel for Respondents

Coram:

Hon. Mr. Justice U.C. Srivastava, V.C.


Hon. Mr. K. Obayya, Adm. Member.

(Hon. Mr. Justice U.C. Srivastava, V.C.)


In these two cases, the facts and the question of law involved is the same, as such they are being disposed of together; The relief claimed in the above two cases is also common. The applicants have prayed that the order passed by the General Manager(P), N.R. New Delhi dated 15.9.89 and the order dated 26.12.89 passed by the Senior Divisional Personal Officer, Lucknow reverting the applicants from the post of Station Masters/Traffic Inspectors grade Rs 1600-2660 to the post of Assistant Station Master grade Rs 1400-2300 placing them below all the Assistant Station Masters

who were empanelled as such on 23.11.83 having effect from 1.8.83 in the grade of Rs 1400-2300 be quashed, and the policy decision regarding the implementation of exparte decisions taken at P.N.M. as communicated by the General Manager(P), N.R. by letter dated 7.6.84 be also quashed. The applicants have prayed these reliefs on the ground that the exparte order reverting them is illegal, arbitrary and violative of Article 311(2) of the Constitution of India as they have been singled out and similarly placed persons have not been reverted. According to the applicants, they were in the panel of Station Masters under the 10% reservation quota for serving graduates and were promoted in the higher grade and have been reverted as Assistant Station Masters which is a different category twisting their right. A decision was taken at the level of P.N.M. and on the basis of the same, behind the back of the applicants which is violative of principles of natural justice, in as much as they were not heard, more so ~~with~~ when such demands, made earlier, were rejected and in demand the Union should not have been made a basis of such actions of the department of at least one set of employees.

2. Some of the applicants were recruited as A.S.M. in the scale of Rs 330-560. Applicant No. 2 was placed on the panel of the grade of Rs 1400-2300 against the reservation quota of 10% for serving graduates, although they were selected as Station Masters against 10% graduate quota and promotion in higher grade of Rs 1600-2660 for filling up vacancies of Traffic Inspector and Section Controller in the grade of Rs 455-700 and vide letter dated 7.4.78 10% of the vacancies




were to be kept reserved in all the five streams namely Station Master, Asstt. Station Master, Asstt. Yard Master, Traffic Inspector and Section Controller in the grade of Rs 455-700 and for preparation of panel for the 10% vacancies in all the five streams were to be formed on each division, and applications from amongst the non-ministerial Transportation class III were invited from serving graduates who were below the age of 35 years on 31.7.82 for selection and written test as well as viva voce of the ~~xxxxxxxxxx~~ candidates was held and on the basis of this selection provisional panel for the posts of Traffic Inspector, Station Master and Section Controller was announced vide letter dated 27.9.83 which included 10 candidates but subsequently an enlarged panel was announced by letter dated 12.8.87 after getting approval of de-reservation from the competent authority. The services of the empanelled staff were regularised from the date they were working on the post and only condition for permanent retention in the panel was subject to the work being satisfactory. Those, whose names were empanelled in the panel, were imparted training as required and thereafter they were recruited as Station Masters in the year 1984-85. According to the applicants, the seniority was given to them from the date of joining in the category of Station Master in the grade of Rs 455-700(RS) in accordance with



para 302 of the Railway Establishment Manual.

Thereafter they were promoted as Station Masters and Traffic Inspectors. It was thereafter, some demand was made by the Northern Railway Men's Union which was earlier rejected. Again this issue was raised in the P.N.M in which a demand was made for reversion of the Station Masters falling within 10% graduate quota and thus the aforesaid manipulation was done at the instance of the union behind the back of the applicants, to which they were not party and the demand was given effect to. According to the applicants out of 16 % kept in the panel of 10% quota, 11 % which included the applicants were earmarked for Station Master and Traffic Inspector were reverted.

3. From the pleadings, it appears that the promotion orders from group C and D were made in the restructuring of the Group C and D. In compliance of the order dated 29.7.83 fixing proforma seniority from 1.8.83 and dispute regarding seniority was raised and it was settled in the manner which was provided in the restructuring of the cadre from 1.8.83 and staff would be placed in the revised grade in the higher grade with the benefit of proforma fixation of seniority from 1.8.83. The Railway Board's order dated 29.7.83 provided that for the purposes of promotion will be on the basis of scrutiny of service record without holding any viva voce test i.e. 10%



graduate quota will not arise. It was thereafter, the applications were invited, reference to which has been made by the applicant.

4. In view of the restructuring, the selection procedure, which was prevalent was modified to the extent of written test or viva voce to be conducted. From the notification it appears that the qualification of any post in the cadre of A.S.M. and S.M. cadre was not changed, but according to the applicant, the cadre of A.S.M. and S.M. were separate in the Northern Railway and the qualification of A.S.M. and S.M. was not ~~change~~ ^{para} changed and the provisions of Railway Board/312 were not made against 10% quota ~~against~~ which was initiated earlier before the restructuring order was received.

5. Restructuring of the Railway Board provides two alternatives. In the first alternative cadres of Station Master and Assistant Station Masters were amalgamated ~~and~~ for each grade while in the second alternative both the cadres were provided separate percentage.

6. According to the respondents, the applicants who were placed in the grade of Rs 455-700 as a result of restructuring and according to the respondent staff empanelled for various categories namely, Station Master/Assistant Yard Master/Traffic Inspector/Section Controller in the grade of Rs 455-700 against 10% Graduate quota, were assigned seniority from the date of joining the categories for which they were earmarked.

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Their seniority was assigned in the respective cadres from the date of joining in accordance with the provision laid down under paragraph 302 of Indian Railway Establishment Manual and the graduate quota was not recruited to undergo training for a period of 3 years like Traffic Apprentice recruited from open market.

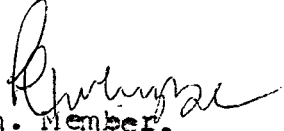
7. As a result of restructuring the promotion orders were issued on 26.11.83 of various station masters in the pay scale of Rs 455-700. In compliance of the Railway Board order dated 29.7.83, fixation of ^{proforma} seniority from 1.8.82 was done and the seniority has been given from 1.8.1983. Subsequently a dispute regarding the fixation of seniority was raised which was settled vide printed serial No. 9340 mentioning that the restructuring of the cadre will be made with reference to sanctioned cadre strength as on 1.8.1983 with the benefit of proforma fixation from 1.8.1982. The applicant's name did not figure in that. The Railway Board order dated 29.7.83 provided that whenever in terms of the revised classification the posts which were hitherto classified as 'selection' are now to be treated as 'Non selection' posts. The ^{part of} unoperated/~~panel~~ prepared for such posts as on 1.8.1983 will lapse and the posts will be filled according to the changed classification, and the cases of selection shall be finalised and promotions also


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made on or before 31.7.1983 and such selected and promoted persons shall rank senior to the persons selected and promoted according to the provisions of the Board's order, but even thereafter a panel was prepared after 31.7.1983 and all 10% graduate quota promotees having pay scale of Rs 455-700 though the 10% graduate quota cadre was to be placed in the cadre of Assistant Station Master (Rs 455-700), Section Controller (Rs 470-750) Traffic Inspector Rs 455-700 and Assistant Yard Master (Rs 455-700). At that time the strength of Assistant Station Masters was 335 and the strength of Station Masters was only 13, but the 10% graduate quota's promotees were not placed in the cadre of Assistant Station Masters though there were a large number of vacancies. Thus, it appears that the applicants were placed in the Station Master cadre and according to the respondents, the applicants were placed in the Station Master Cadre in violation of provisions of para 302 of Railway Establishment Manual II. In was in these circumstances in the P.N.M meeting the matter was decided and before deciding the matter, the applicants were allowed time to make representation. It is thus to be seen that ~~the~~ so far as the seniority of respondents is concerned, the contention which has been raised by the applicants over the respondents is obviously not correct.

8. We had occasion to deal with this question also in the case of 'Girija Dutt Pandey vs Union of India and others' (O.A. No. 1703 of 1987) decided on 5.8.92, which case, we have dismissed. The instant case also is in line with the same. In this case also the applicants penal

position was not correct. The contention on behalf of the applicant that they could not have been reverted and their reversion order is violative of Article 311 of the Constitution of India, is not correct as it is only what was erroneously done, has been rectified, merely because discussion took place that could not be taken to mean that it is because such decision was given in the P.N.M. meeting. The fact that the date of joining of applicants is later than the entry into the higher grade of the answering respondents, the applicants are not entitled to get any reliefs and seniority etc. Accordingly the application deserves to be dismissed and the same is accordingly dismissed. No order as to costs.


Adm. Member.


Vice Chairman.

Shakeel/-

Lucknow: Dated: 23 Feb 1993.