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Applicants

by Advocate Shri ...

versus

Union of ...  
Board, ...

Respondents.

by Advocate Shri ...

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Seven applications by means of this O... are challenging the provisions contained in serial No. VI, VII, VIII of column 4 of the Railway Board's letter No. ... dated 5.2.87. Copy of the said letter has been filed as Annexure No. ...-1.

It is to be noted that the applicants all claim that they were recruited as

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Traffic Apprentices against 15% direct recruitment quota in the year 1982, in the then grade of B 455-700. The said grade is revised to B 1400-2300 with effect from 1.1.86 pursuant to the recommendation of the IVth Central Pay Commission. The channel of promotion of Traffic Apprentice against 25% quota as also 75% have been indicated in the impugned Board's letter.

3. The main grievance of the applicants is that as Traffic Inspector they are subjected to an exhaustive training in every sphere of Traffic and Commercial Department at Chandauli Training Centre. The period of training is three years. Those who qualify at the training are utilised by the railway authorities in different streams like Station Master, Yard Master, Section Controllers and Traffic Inspectors. They allege that the local railway authorities have used their discretion arbitrarily in posting the applicants without any norms to any of the aforesaid streams. The applicants' further allegation is that Traffic Apprentice posted as Section Controller in Control Section, according to the Railway Board's letter would be eligible for being promoted in the next higher grade of B 2000-3200 (A-1) on the basis of their seniority, as the said grade has been declared to be 'no-selection' while Traffic apprentices like the applicants posted in other streams like S.M.S, D.M.S, Yard Masters, T.I.s would not be promoted on the basis of seniority to the next grade of B 2000-3200 and this grade has been classified as 'selection grade' for the

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above mentioned streams. The applicants' case is that earlier, for Traffic Apprentice recruited in grade B 455-700 (B: 1400-2000 RPS) were promoted were promoted in grade B 550-750 (B: 1600-2660 RPS) on the basis of seniority since the said grade was classified as 'non-selection'.

4. The applicants have been fitted in grade B 550-700 (B: 1600-2660 RPS). The position, because of classification of higher grade posts of B 2000-3200 (RPS) and B 2375-3500 (RPS) being classified as Selection grade, <sup>is that RPS</sup> they will have to face selection. Thus, in short the applicants state that Traffic Apprentices posted as Section Controller or as Traffic Inspector in grade B 1600-2660(RPS) would be eligible to be promoted to the next two higher grades of B 2000-3200 and B 2375-3500(RPS) on the basis of seniority, but the applicants will have to face selection.

5. The respondents have filed their reply. In reply to the same, rejoinder has been filed by the applicants. The relevant pleadings of the parties will be adverted <sup>to</sup> while discussing the submissions made by the learned ~~counsel~~ <sup>Counsel</sup> for the parties.

6. The learned counsel for the applicant strenuously urged and highlighted the inequitable and discriminatory treatment meted out to the applicants, because of the two higher grades having been classified as selection grades, while Traffic Apprentice in identical grade, as the applicants would be eligible to be promoted to the next two

higher grades, merely on the basis of their seniority since the said grades, by the Railway Board's letter have been classified as non-selection posts.

7. The respondents, in the written statement have referred to rule 212 of the Indian Railway Establishment Manual, Volume-1, Revised Edition 1939. The said rule reads as under:

"Rule 212: Declaration of posts as 'selection' or 'Non-selection' posts:- The posts are declared as 'selection' or non-selection' for the purpose of promotion by the Railway Board depending upon the requirement of the service."

It was put to the learned counsel for the applicant that in view of the provisions of the aforesaid rule, the declaration of posts as 'selection' or 'Non-selection posts' is purely <sup>a</sup> ~~the~~ matter of policy and the said declaration depends upon the requirement of the service. It being a policy decision and it lies exclusively in the domain of the Railway Board, it would not be appropriate for this Tribunal to interfere with the said policy decision since no material has been placed on record to indicate arbitrariness on the part of the Railway Board <sup>wt</sup> ~~and~~ declaring the next two higher grades in the streams in which the applicants are working as selection posts. The learned counsel for the applicant, in reply submitted that previously, the policy of declaring 'selection' or 'non-selection' posts had definite pattern, the recruiting grade was classified as selection grade and

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alternatively the next above grades were classified as 'non selection' and 'selection' and so on. He urged that a departure from the said pattern has been made by the impugned order. This submission does not meet the question posed to the learned counsel. The fact of a certain classification of various grades as 'selection' or 'non-selection' would be a policy decision. As noted hereinabove, the said classification is to depend on the requirement of the service. No material has been placed on record to satisfy us that the classification is in any manner arbitrary. This Tribunal cannot substitute its assessment of the various posts for the purposes of classification as 'Non-selection' and 'selection'. He pleads that there has been a departure from the earlier ~~fact~~<sup>practice</sup> is also not sufficient to hold that the departure is arbitrary. It is not to observe that a policy decision cannot be ~~static~~ static. It is open to change keeping in view the requirements and exigencies of service. Here, we are not persuaded to hold that the classification of two higher grades to the grade in which the applicants are working as selection, since such a has been made on extraneous considerations. To relief the applicants have sought viz. classification to the respondents 1 and 2 to classify the grade of Rs 700-900 (2000-3200 RPS) as non-selection and promote the applicants to grade Rs 2000-3200 on the basis of seniority with effect from 15.8.87 with consequential benefits deserves to be granted.

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For the same reasons the first relief for quashing the serial no. VI, VII, VIII of Column 4 of seniority board's letter contained in Annexure No. 41 also deserves to be rejected.

8. The learned counsel for the applicant has submitted that the seniority list of traffic inspectors at the Divisional level should be re-casted as one unit and the applicants may be ordered to be promoted in order of seniority of traffic apprentices, utilised in different stations of the Traffic Department as provided in clause 201 (a) of the Indian Railway Establishment Code. This is the third relief sought for. The applicants have not impugned any seniority list. Hence, we do not feel to call upon to adjudicate the question raised. The learned counsel for the applicant has submitted relying on circular dated 24th March, 1979, issued by General Manager, Northern Railway, New Delhi, copy of which is Annexure 42 that the applicants are entitled for the consequential benefits including promotion on the basis of 20 point roster, as contained in the said circular. The respondents, in their written statement have raised the plea that the 20 Point Roster as contained in the said circular was evolved in order to ensure uniform procedure for regulating promotion of transportation staff in accordance with prescribed percentage in cyclic order. It is pleaded that the 20 Point Roster was evolved only to avoid a situation where simple mathematical calculation would yield a result where a particular group/category would get excessive share while the other groups/categories

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may get less due to negligible quantity of fraction. It has been pleaded that 20 Point Roaster has nothing to do with the seniority and further promotion and paragraph 302 of the Indian Railway Establishment Manual. It is pleaded that the promotions are made in accordance with channel of promotion available to a particular stream. For the purposes of promotion, the seniority assigned under paragraph 302 of the Indian Railway Establishment Manual plays a vital role and there can be no discrimination between the Traffic apprentices, Bankers or Departmental Graduates.

9. The respondents have annexed a chart showing the different channel of promotion for the various streams for Station Masters, Section Controllers, Yard Masters etc. It is pleaded that the channel of promotion in a particular stream is laid down by the zonal Railway Administration in exercise of powers conferred upon them by the Railway Board. We find merit in the plea taken by the respondents in the written statement that the Traffic apprentices, after their absorption on their working posts in various streams have to seek further advancement according to the classification of posts as 'Non-selection' and 'selection' type by the Railway Board in accordance with the channel of promotion laid down by the Railway Board (Northern Railway) for their respective streams. The said channel of promotion was laid down in a letter dated 22.7.1968 after the decision in the various cases pending before different benches

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of the General Administrative Tribunal. It has further been pleaded by the respondents in their written statement and affidavits as such do not constitute any cadre, rather they acquire nomenclature and perform the duties by the cadre they were absorbed and their seniority reckoned in terms of paragraph 302 of the Railway Establishment Manual keeping in view their interse seniority in that. It is further pleaded that the provisions of paragraph 303 (9) is automatically followed while maintaining their interse seniority and paragraph 302 gets attracted while preparing the seniority of that cadre together with the remaining 75% tankers and 10% Departmental Graduates

10. In view of the discussion hereinabove, we do not find any merit in the O.A. and it is accordingly dismissed. No order as to costs.

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Mian. Member.

B. Lakshmi  
Vice Chairman.

Lucknow: Dated: 30 May, 94.

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