

CENTRAL ADMINISTRATIVE TRIBUNAL

PATNA BENCH, P A T N A.

O.A.NO.: 612/96

DATE OF DECISION : ^{*}31-JULY-2000.

Tapan Kumar Mukherjee, working as Skilled, Grade-III in the scale of Rs.950-1500 in the DPOH in the Diesel Mechanical Trade in the Eastern Railway Workshop at & P.O. Jamalpur, District : Munger in Bihar under the Chief Works Manager, Eastern Railway Workshop, at & P.O.: Jamalpur, with 27 Ors.APPLICANTS.

By Advocate :- Mr. R.K.Jha with Mr. A.N.Jha.

Vs.

1. Union of India represented through the General Manager, Eastern Railway, Fairlie Place 17, Netaji Subhas Road, Calcutta-1.
2. The Chief Personnel Officer, Eastern Railway, Fairlie place, 17, Netaji Subhas Road, Calcutta-1.
3. The Chief Works Manager, Eastern Railway Workshop, at & P.O.: Jamalpur, District : Munger.
4. The Workshop Personnel Officer, Eastern Railway Workshop, AT & P.O. Jamalpur, District : Munger.
5. The Asstt. Personnel Officer, Eastern Railway Workshop, At & P.O.: Jamalpur, District : Munger. with 13 private respondents.RESPONDENTS.

By Advocate :- Mr. Gautam Bose.

C O R A M

HON'BLE MR. JUSTICE S.NARAYAN, VICE-CHAIRMAN.

HON'BLE MR. L.R.K.PRASAD, MEMBER [ADMINISTRATIVE].

O R D E R

JUSTICE S.NARAYAN, V.C.:- The applicants, being 28 in number, are presently working as Skilled Gr.III in the scale of Rs.950-1500/- in DPOH Shop in the Diesel Trade of the Eastern Railway Workshop at Jamalpur, to which the private respondents no.6 to 18 also previously belonged to. They [the applicants] have impugned an order dated, 6th May, 1996 [Annexure-A/3], of the respondent no.3, Chief Works Manager, Eastern Railway, Jamalpur, whereby, the private respondents no.6 to 15 have been promoted to the post of Skilled Gr.II in the scale of Rs.1200-1800/- w.e.f. 6th May, 1996. They have also challenged the communication dated, 19th June, 1996 [Annexure-A/6], of the respondent no.3, whereby, it has been informed that there were two

seniority groups in DPOH Shop and promotions are given according to their ^{respective} seniority.

2. Admittedly, the applicants and the private respondents 6 to 18, along with some others, were selected as Apprentices under the Apprentice Act, 1961, and, on completion of the Apprentice Course for three years, in 1985-88 session, in the Railway Training Centre at Eastern Railway, Jamalpur, they were declared successful in All India Trade Test Examination, held in October, 1988, by the Directorate of All India Trade Test Examination Board, Calcutta. They all were thus, appointed as Skilled Gr. III in the scale of Rs.950-1500/- in three batches in the DPOH Shop in the Diesel Trade of the Eastern Railway Workshop at Jamalpur, as per orders of the concerned authority, vide Annexures-A, A/1 & A/2. There were two different wings, called Mechanical Wing and Electrical Wing, in this DPOH Shop at Jamalpur.

3. In context of the above admitted facts, it was contended on behalf of the applicants that even though the applicants and the respondents no.6 to 18 were members of only one cadre and they were inter-linked together with a common seniority unit, the respondent authorities verbally asked the respondents no.6 to 18 to work in the Electrical Wing of the said Shop of the Diesel for some time and, ultimately, all on a sudden they promoted the respondents no.6 to 15 as Skilled Gr.II in the scale of Rs.1200-1800/- by the impugned order dated, 6th May, 1996 [Annexure-A/3]. It was urged that no option was asked from the applicants or amongst all the Diesel Skilled Gr.III for separate allocation in the two wings like, Electrical Wing and Mechanical Wing. Acting malafide, some officers of the Workshop ^{introduced} promotional avenues in favour of private



respondents no.6 to 18 by creating separate Electrical Wing.

4. As against the above contention of the applicants, the official respondents contended, inter-alia, that the two wings such as, Mechanical and Electrical Wings of the DPOH [Diesel], were in existence from before the appointment of the applicants and the private respondents; and the allegations of the applicants in this regard were not tenable.

5. Let it be, therefore, examined, whether, the allocation of the applicants and the private respondents in the Mechanical Wing and Electrical Wing of DpoH Shop, Jamalpur, was arbitrary, based on whims and favour of the official respondents so as to give undue advantage to the private respondents since promoted ?

6. At the very outset, our attention was drawn to a resolution passed in the joint meeting of the administration side and the representative of the workers, held on 7th July, 1988, vide Annexure-R/8, i.e., much prior to the appointment of the applicants and the private respondents in DPOH [Diesel]. As per resolution passed in the meeting, ~~two~~ two separate wings, called Mechanical and Electrical, were created with certain percentage of the workers being placed in Mechanical side and some others in Electrical side for Skilled categories as also for non-Skilled categories. Relevant extract of the said resolution will be useful for the instant case and, accordingly, the same is placed hereinbelow :

"The distribution of Diesel cadre made i.e.
63 : 35 for Mechl. & Elect. for skilled
categories and for unskilled categories 60:40 for
Mech. and Elect. Wings respectively has been
explained to the Union. The detailed position of

Diesel posts has also been given to their notice.

It has been decided that the cadre is now separated accordingly to the percentage of Mechl. and Elect. Wings as decided above and as shown to them in the meeting. The vacancies in the cadre will be filled-up by the existing staff of DPOH by promotion first and then by screening the optees. Options of which will be called after filling up the vacancies by the existing staff for the vacant posts. 25% of the skilled vacancy will be filled up by direct recruit as per laid down procedure. After filling up of the vacancies, the cadre will be closed. Whenever there will be new vacancies, the cadre will be temporarily opened for induction on administrative ground as per rule extant."

7. Pursuant to the aforesaid minutes of the meeting, held on 7th July, 1988, an order dated, 5th October, 1988 [Annexure-R/9], was issued to the Chief Works Manager, Eastern Railway, Jamalpur, whereby, as many as 402 workers of Skilled Gr.I, Gr.II & Gr.III were allocated to Mechanical Wing and the remaining 217 to Electrical Wing in the ratio of 65% for Mechanical Wing and 35% for Electrical Wing. Thus, we are unable to accept the applicant's contention that the creation of two Wings was made only to defeat the claim of the applicants. Instead, it has been demonstrated on the record that the two separate Wings of the Shop in question existed very much before the joining of the applicants and the private respondents in DPOH [Diesel], Jamalpur.

8. Further, it has been amply demonstrated on the record by the respondents that the applicants and the private respondents no.6 to 18 were allocated different Wings such as, Mechanical and Electrical, soon after the

appointment being notified as per Annexures-A, A/1 & A/2. The allocation of different wings to them has been depicted on the record as per letters dated, 20th November, 1990 [Annexure-R/2], 7th March, 1991 [Annexure-R/3], 29th March, 1991 [Annexure-R/4] and 2nd April, 1991 [Annexure-R/5]. The allotment of Wings as per these Annexures -R/2 to R/5, were apparently issued soon after their appointment having been made on 19th November, 1990 [Annexure-A], 6th March, 1991 [Annexure-A/1] and yet another, dated [Sic] [Annexure-A/2]. It was, therefore, obviously wrong on the part of the applicants to have pleaded in para 4.6 of the OA that the private respondents no.6 to 18 were asked verbally at times by the Workshop Superintendent to work at the electrical side of the Shop.


9. Of course, it is not very much explicit on the record as to what was the basis for the official respondents to allocate the two different Wings among the applicants and the private respondents 6 to 18. It has not been spelt-out whether the allocation was in terms of the option exercised by the incumbents or in the light of their performance during the training period. Be that as it may, the fact, however, remains that the applicants and the private respondents were allotted different Wings at the very initial stage of their appointment i.e., in the year 1990-91, but for no objection, raised until a representation dated, 23rd May, 1996 [Annexure-A/4], and yet another, being in the form of legal notice dated, 31st July, 1996 [Annexure-A/5], were filed before the official respondents. The representation dated, 23rd May, 1996 [Annexure-A/4], appears to have been answered by the official respondents through ^{impugned} the letter dated, 19th June, 1996 [Annexure-A/6], to the effect that there were two separate seniority lists in DPOH Shop, and that ^{the} promotions

were given as per those separate seniority lists.

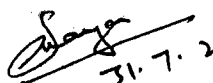
10. It appears that eventually when there was promotion given to the private respondents, as per their respective seniority in the Electrical Wing of the Shop, ~~vide~~ promotion letter dated, 6th May, 1996, against the vacancy of Skilled Gr.II, the applicants woke-up to the situation and wanted to make out a case so as to be equally benefited also in the Mechanical Wing of the Shop. However, we are of the view that there was no rationale in the logic as pleaded on behalf of the applicants. Since the policy under which the cadre of Electrical Wing of the Shop was implemented long before the appointment of the applicants and even the seniority list of the two wings was published much early i.e., through the letter dated, 3rd February, 1993, vide Annexure-R/1. It was no more open for the applicants to rake-up the issue at such a belated stage so as to un-settle the things already settled.

11. In no view of the matter, the facts and circumstance of the case would permit the things already settled to be un-settled by revising the seniority list on the score as pleaded by the applicants.

12. For the reasons, aforesaid, there appears no merit in the instant OA and, accordingly, it is dismissed. There shall be no order as to costs.


[L.R.K.PRASAD]
MEMBER [A]

31.7.2000


[S.NARAYAN]
VICE-CHAIRMAN

31.7.2000

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