

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

PATNA BENCH, PATNA

O.A. No. 549 of 1996

Date of order 22-8-1997

1. Jugeshwar Paswan, son of late Mewadas, resident of village Kaima, P.S. Badh(Bagh), District Patna, at present working as Shunt Man Grade I, Garhara Yard, Barauni, Begusarai.
2. Awadh Paswan, son of Sri Jugeshwar Paswan, resident of Village Bigha, P.S. Mokama, District Patna, at present working as Shunt Man Grade I, Garhara Yard, Barauni, Begusarai.
3. Suresh Rai, son of Late Jugeshwar Sao, resident of Village Bihat, P.S. Barauni, District Begusarai, at present working as Shunt Man Grade I, Garhara Yard, Barauni, Begusarai.
4. Badrul Hassan, son of Late Abdul Hai, resident of Village Jitwarpur, P.S. Samastipur, District Samastipur, at present working as Shunt Man Grade I, Garhara Yard, Barauni, Begusarai.
5. Surya Kant Maharaj, son of Late Mahaoir Maharaj, resident of Village Dharharwa, P.S. Parihar, District Sitamarhi, at present working as Shunt Man Grade I, Garhara Yard, Barauni, Begusarai.
6. Devendra Prasad, son of Hajari Rai, resident of Village Kursaha, P.S. Mohindra Nagar, District Samastipur, at present working as Shunt Man Grade I, Garhara Yard, Barauni, Begusarai.
7. Babulal Yadav, son of Late Jagmohan, resident of Village Bhuriya, P.S. Darbhanga, District Darbhanga, at present working as Shunt Man Grade I, Garhara Yard, Barauni, Begusarai.
8. Kamal Kant Maharaj, son of Late Mahaoir Maharaj, resident of Village Dharharwa, P.S. Parihar, District Sitamarhi, at present working as Shunt Man Grade I, Garhara Yard, Barauni, Begusarai.

9. Shiv Narayan Thakur, son of Late Ram Prasad Thakur, resident of Village Radhiyam, P.S. Bahera, District Darbhanga, at present working as Shunt Man Grade I, Garhara Yard, Barauni, Begusarai.
10. Ram Prakash Poddar, son of Lakshmi Poddar, resident of Village Simaria, P.S. Chakiya, District Begusarai, at present working as Shunt Man Grade I, Garhara Yard, Barauni, Begusarai.
11. Mahendra Singh, son of Late Satyanarain Singh, resident of Village Mathidah, P.S. Mathidah, District, Patna at present working as Shunt Man Grade I, Garhara Yard, Barauni, Begusarai.
12. Binda Mahto, son of Ram Gulam Mahto, resident of Mohalla Sitalpatti, P.S. Chiraya District East Champaran.
13. Raoi Bhushan Sinha, son of Late, Panchanand Sinha, resident of village Bhawanandpur, P.S. Majhawal, district Begusarai, at present working as Shunt Man Grade I, Garhara Yard, Barauni, Begusarai.
14. Md. Hadish, son of Md. Ahlim, resident of Village Dhanduhan, P.S. Maharajganj, District Siwan, at present working as Shunt Man Grade I, Garhara Yard, Barauni, Begusarai.

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Applicants

-versus-

1. The Union of India, through the General Manager, Eastern Railway, Fairly Place, Eastern Railway, Calcutta.
2. The Divisional Railway Manager, Eastern Railway, Danapur Division, Danapur.
3. Senior Divisional Personnel Manager, Eastern Railway, Danapur Division, Danapur.
4. Senior Divisional Operating Manager, Eastern Railway, Danapur Division, Danapur.
5. Chief Yard Master, Garhara Yard, Eastern Railway, P.O. Garhara, District Begusarai.

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Respondents

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CORAM : Hon'ble Mr. Justice V.N.Mehrotra, Vice-Chairman

Counsel for the applicants : Shri Ravi Shankar Prasad.  
Shri S.K.Sinha,

Counsel for the respondents : Shri Gautam Bose.

ORDER

Hon'ble Shri V.N. Mehrotra, Vice-Chairman:-

This O.A. has been filed under section 19 of the Administrative Tribunals Act, 1985 with the prayer that order dated 18.10.1996 issued by the Divisional Personnel Officer, Danapur Division, directing the applicants to work as Liverman Grade I be quashed and the respondents be directed to maintain separate work and responsibility of the Liverman and Shuntman in the Railways. The applicants have also prayed that the respondents be directed to take the work of Shuntman only from them.

2. The applicants were working as Shuntman Grade I in the scale of Rs.950-1500 in Garhara Yard. By the impugned order they were transferred from Garhara to P.G. Line as Liverman Grade I. The contention by the applicants is that Shuntman and Liverman belong to different cadres and the work assigned to them is totally of different nature. It is contended that their seniority and promotional chances will also suffer if they join as Liverman for which they had not received any training.

3. The respondents have in their written statement asserted that the applicants were posted as Shuntman Grade I in Garhara Yard. The Railway Administration has taken a decision to close that Yard, hence all the applicants were declared surplus and, therefore, instead of terminating their services, the Administration has engaged them in an

equivalent post for which they have got the requisite training. It is further asserted that Shuntman, Gateman and Liverman are given the same training before their appointment and after passing of the test, candidates are posted as Shuntman, Gateman or Liverman as per requirement in the scale of Rs.950-1500. It is asserted that it is wrong to say that a Shuntman cannot work as Liverman, if so required. In fact, the Railway Board vide its letter dated 2.4.1992 re-classified the posts of Pointsmen, Shuntmen, Cabinemen Grade I in the scale of Rs.950-1500 as non-selection from selection and further held that the Railway Administration will have the flexibility of utilising them in the common grade of Rs.950-1500 in any of these categories depending upon the requirement of the Administration. It has also been mentioned that the applicants were spared on 25.10.1996 from Garhara Yard by the Yard Master. It has further been mentioned that if the applicants are asked to perform the duties of Liverman due to administrative reasons, they will definitely carry their seniority with them. It is then stated that the applicants will be getting the benefit of length of service in the category of Livermen, hence, the assertion otherwise by the applicants was not correct. It is thus asserted that the order in question is not liable to be set aside.

4. The applicants later on filed a supplementary application in which they mentioned that they have reported for duty on 6.6.1997 according to the transfer order. The learned counsel for the applicants, however, argued two facts in his arguments. The first contention

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now raised by him is that seniority of the applicants who have been transferred as Liverman and their promotional chances may not be affected. The learned counsel has also raised the plea regarding payment of salary from the date of their being relieved from Garhara Yard and up to the date on which they reported for duty at the place of their new posting.

5. The learned counsel for the respondents has, however, argued that question regarding promotional chances does not arise as the same has already been clarified in the written statement. It is also argued that the question of seniority also does not arise at this stage nor the same was raised in the O.A. It is further argued that the matter regarding payment of salary, as raised by the learned counsel for the applicants, is not in issue in this O.A.

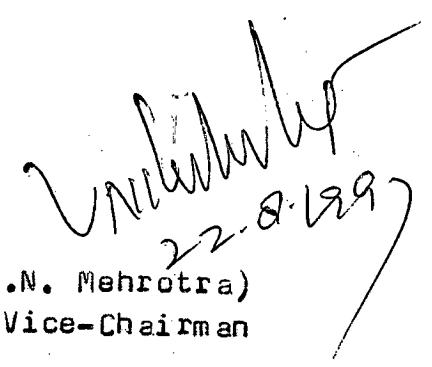
6. I have considered the arguments advanced by the learned counsel for the parties. As mentioned earlier, the applicants have already joined at the new place of posting. The learned counsel for the applicants in his arguments has also not challenged the validity of the transfer order. In the circumstances, <sup>the question of</sup> setting aside the transfer order now does not arise. As regards the matter of promotional chances, it has been clarified in para 15 of the written statement itself according to which the applicants will definitely carry their seniority with them when they are asked to perform the duties of Liverman and in para 16 of the written statement, it has been clearly mentioned that the applicants will be getting the benefit of length of service in the category of Liverman. In view of

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these statements, the anxiety expressed by the learned counsel for the applicants on this question does not appear to have any basis.

7. As regards the question of payment of salary for the period before the applicants joined the new posts, it is not a question in issue in this O.A. The applicants, if necessary, may represent their case regarding salary to the appropriate authority, who will no doubt consider the case in accordance with the relevant rules or statutory provisions. No more is required to be said on this question in this O.A.

8. In view of the above discussion, this O.A. is dismissed. No order as to costs.

  
(V.N. Mehrotra)  
Vice-Chairman

C.Mahato