

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH, BOMBAY

(21)

Tr.A.NO.7/87

Mr.C.G.Hardikar

... Applicant

vs.

Union of India & Ors.

... Respondents

AND

Tr.A.No. 8/87

Mr.G.J.Lad

... Applicant

vs.

Union of India & Ors.

... Respondents

CORAM: Hon'ble Shri Justice U.C.Srivastava, Vice Chairman
Hon'ble Shri M.Y.Priolkar, Member (A)

Appearance

Mr.D.V.Gangal
Advocate
for the Applicants

Mr.V.G.Rege
Advocate
for the Union of India & Ors.

Mr.S.B.Shinde
Advocate
for Private Respondents

JUDGEMENT

Dated: 10/4/92

(PER: U.C.Srivastava, Vice Chairman)

As identical questions are involved in these two applications, the same are being disposed of together. Prayer in these transferred applications initially filed as writ petition before the High Court is for issuance of writ of prohibition and mandamus restraining the respondents from allowing Train Conductors from appearing in the written test which was going to held on 23.9.1984 and directing them to hold the other selection process commenced vide letter dated 1.9.1984 without the cadre of Conductors. In the second application (T.R. 8 of 87) prayer is for quashing the seniority list dated 15.3.1984 granting

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fifteen (15) posts grade Rs.550-750 to the Train Conductors, in addition to the reliefs claimed in first application. It has been further prayed that the promotion of respondent No. 4 who was earlier Conductor to the post of Chief Ticket Inspector Grade Rs.550-750(RS) be quashed and mandamus be issued directing the respondents to implement the channel of promotion which appeared under Item No. 262 of the Fortnightly Gazette No.6 dated 1st June, 1968. Admittedly these Conductors appeared in the examination and some of them succeeded and got the appointment but under the orders of this Tribunal the same is subject to the result of these applications.

2. The applicant's case is that the post of Train Conductor is an ex-cadre post and it is within the normal channel of promotion of Ticket Checking Staff in the sense that the Train Conductors are not eligible for further promotion unless they go through the process of selection on the Divisional Seniority basis and pass through that selection for promotion to the post of Head Ticket Collector/Travelling Ticket Inspector. The nature of duty, according to the applicants, of Travelling Ticket Inspector and Head Ticket Collector are of a supervisory nature in as much as they have to supervise the work of the subordinate staff working under them. The Train Conductors perform the same duty as Travelling Ticket Examiner in as much as they have to examine the Tickets of the Passengers in the Upper Class Coaches. They have to look after the convenience of the Passengers in that they have to arrange the Food, Breakfast, etc. for them, that is they are created as an amenity to the Passengers of the Upper Class without there being any differences between Travelling Ticket Examiner and the Train Conductors. This may, according to the applicant, be the reason why the post of Train

Conductors are filled in on the basis of non-selection process that is on the basis of seniority from the post of Travelling Ticket Examiner and no further channel of promotion is provided to them since according to rules alternate promotions are by selection process whereas the post of Travelling Ticket Inspector/Head Ticket Collectors being the supervisory post the promotion to these posts is by selection process.

3. The grievance of the applicants is regarding the clubbing of the seniority of T.T.I.(Travelling Ticket Inspector) H.T.C.(Head Ticket Collector) with Train Conductor and grant of 15 posts to train conductors in the grade of Rs.550-750. According to the applicants the seniority list of two different categories presupposes existence of identity of many imponderables. The Train Conductors who are in the grade of Rs.425-640 (RS) got the promotion to the said post by seniority whereas the T.T.I and H.T.I. got the promotion by selection by appearing in written test as well as viva voce. The applicants have placed reliance on note at the bottom of the Ministry of Railways letter dated 20.12.1983 regarding Cadre review and restructuring of non-gazetted Cadres(which is on record) 'C' Categories. The note at the bottom of the said documents states that the cadre of Train Conductors in scale of Rs.425-640 is to be combined with Ticket Checking Staff in the corresponding scale only for the limited purpose of determining higher grade posts in scale of Rs.550-750 and Rs.700-900 after which the category of Train conductors will continue to exist as separate category as at present. From the said document learned counsel states that it is very clear that the

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cadre of Train Conductors is quite different and it is only for limited purposes certain benefits are given to it. Thereafter the category of Train Conductors will continue to exist as separate category at present. In this connection, a reference has also been made by the learned counsel to the Circular letter No. P.487/III PC/16/Selection/dated 17th August 1974 regarding implementation of the recommendations of the IIIrd Pay Commission which was issued by the South Central Railway in which it has been provided that the Board has decided that the classification of posts in different Authorised scales which have been merged into the same Revised Scales, should be as in column 5 of the attached statement. In some cases this classification calls for changes in other grades within the same avenue of promotion. These consequential changes should be as in column (6) of the statement. In the said statement all these categories have been separately shown under the Column category. It may be that the South-Eastern Railway it was treated as such but the said document is not very material for the purposes of the case. The respondents both the Union of India and Railway Administration as well as private respondents have challenged the plea raised by the applicant and have filed their reply. In the written statement it has been stated that the duties of Travelling Ticket Inspectors/Head Ticket Collector as pointed out by the applicants are correct but for the matter of sanctioning of leave but the Train Conductors perform the same duties as that of T.T.E. but only in the First Class or airconditioned coaches they are supposed to look after the convenience of such passengers and that the said posts are created for the amenities of such passengers of upper classes but there is no difference in the duties that are to be performed by the Train Conductors as well as by T.T.E. It has been pointed out that the Conductors working in the grade of Rs.425-640 have got the channel

of promotion as mentioned above and plea to the contrary is not correct. Now regarding seniority list of Head Ticket Collector/Travelling Inspector Grade Rs.425-640 and Conductor Grade Rs.425-640 has been published separately because seniority of ex-Grain shop staff was adjusted therein. The promotions have been ordered only on the basis of combined seniority which was published on 26.4.1980 and in 1984^{also} the same list was published. Now the T.C. staff also have an option to rise in this cadre through the process of selection and non-selection to the highest post of Chief Ticket Inspector in the grade of Rs.700-900. The Conductors are also equally eligible, and the factual statement given by the applicant regarding certain stations have been disputed by the respondents. With reference to Railway Board's letter dated 29.7.1983 it has been stated that the staff who were eligible for double promotion in the upgradation with effect from 1.1.1984 have to undergo selection process in case the posts are selection ones, and there were two posts in the grade of Rs.700-900 on 31.12.1983 and the said strength was increased to 20 with effect from 1.1.1984. and^{as} there were only three employees working in the grade of Rs.550-750 on regular basis as such the promotion was to be given to them. The conductors who are in the grade of Rs.425-640 are also eligible for promotion to the higher grade of Rs.550-750 and they can be said to be a some what different cadre but the promotion is to be made from a particular grade and as their grade is the same like the other feeder channel, they cannot be deprived of the promotion post provided they undergo a selection process and succeed in the same. Ultimately, the Railway Board vide its letter dated 31.1.1986 bearing No. E.(NG)I-84-PM3-15 addressed to General Manager, All Indian Railways communicated the decision keeping

in view the need to man the post of conductors by smart persons, as a lot of public contact involving human touch and tact is required for this cadre of the staff and directed that the posts of conductors in grade Rs.425-640 may be filled by the staff who have cleared the selection for promotion to grade Rs.425-640. is already in vogue. If the panel is combined from the lowest to the highest grade they may deploy staff as Head Ticket Collector thereafter as Conductor and thereafter Head Train Ticket Examiner in grade Rs.425-640 in order of selection to the grade.

In pursuance of the Railway Board's letter mentioned above the General Manager of the Central Railway vide its letter dated 1st July 1986 revised channel of promotion for Ticket Checking staff as indicated in the General Manager's letter referred to above, and this was done by the General Manager Central Railway in view of the provision contained in Para 4 of Railway Board's letter dated 31.1.1986 as well as Rule 158 of the 'Railway Establishment Code. It has also been pointed out that the decision to decentralise the work ~~in~~ in connection with the promotions to the post in the grade Rs.550-750 and to entrust it to the respective Heads of the Divisions of the Central Railway was taken and communicated by the communications dated 18th February, 1984 though the said communications indicates that the decentralisa-
place
tion was to take with retrospective effect from 31.12.1983/
1.1.1984 as such the challenge to the promotion order issued on 13th January 1984 on the ground that it should have been issued by the Divisional Office has no substance at all.

In view of the facts stated above, al-though the cadre of the Conductors are different but being placed in a particular grade in which the other feeder channel was raised, they were entitled to the promotional post like others notwithstanding the fact that the post which they were holding was non-selection post. There was no bar and rather they were

entitled to participate in the selection process. It may be some difference in the duties one way or the other but otherwise their duties were identical with those like the TTI and others and mere variations in some duties here and there will not be taken to mean that duties are quite different and they cannot be brought in the feeder channel, and rightly they were brought in the feeder channel. Whatever doubts were created earlier has subsequently been removed by the Railway Board by declaring their entitlement in the year 1986 and if before that they have appeared in the selection and succeeded, their selection cannot be set aside on the ground that they belong to a different cadre. in the absence of any rule or notification depriving the members of that cadre to participate in the said selection. So far as selection at Divisional Railway is concerned that was fully legal as has been stated in the reply by the respondents stated above. Accordingly, we do not find any merit to uphold the contention of the applicants and the relief claimed by the applicants are to be ^{rejected} reviewed. The conductors who have been selected and have been appointed, their appointment is legal and cannot be set aside at the moment as earlier this position was not clear and accordingly these applications are dismissed with the above observations.

No orders as per copy