(6)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH

ORIGINAL APPLICATIONS NO:

1. Shri Shivpal Singh in OA No.587/89
2. Shri Keshav Ganpat Tali in OA No.601/89
3. Shri Dattatraya Bandoo Karjat in OA No.591/89
4. Shri Abubakar Mahmudi in OA No. 594/89
5. Shri S.S.S.Kadar in OA No. 593/89
6. Shri R.H.Mahale in OA No.596/89
7. Shri Nazir Ali Nasir Ali in OA No.595/89
8. Shri Mehmood Hussain in OA No.589/89
9. Shri Ramchandra Limbaji in OA No.590/89
10. Shri Abdul Hasan SK Bakar in OA No.600/89
11. Shri Terry Parose in OA No.592/89
12. Shri Mascarrenhas Diego in OA No.599/89
13. Shri Deobax Chandrapol in OA No.598/89
14. Shri Nazrath Radriques in OA No.597/89
15. Shri Yeshwant Bhagaje in OA No.588/89
16. Shri Bhiwa Mogal Manohar in OA No.602/89 ... Applicants

Vs.

Divisional Railway Manager,
Central Railway, Bombay. ... Respondent

CORAM : HON'BLE SHRI M.Y.PRIOLKAR, Member(A)

HON'BLE SHRI T.C.REDDY, Member (J)

Appearance :

Mr.L.M.Nerlekar, Adv,
for the applicants

Mr.S.C.Dhavan, Adv,
for the Respondent

.2.

ORAL JUDGMENT DATED : 9.7.1991

(PER : M.Y.PRIOLKAR) Member (A)

All the applicants in the above 16 Original Applicants have the grievance that the Railway Board's order dated 2.7.1986 restructuring the cadre of Drivers has not been implemented correctly by the Respondent. Their specific prayers are, that the pay for the post of Driver Gr.B should be fixed at Rs.425-700/- which should be effective from the dates when,according to them, there were vacancies in Driver B Grade, and not on the basis of actual dates of promotion which were about 6 months or so later in most cases. In all cases, according to the respondent, promotions were made against normal vacancies available for promotion. Since the relief prayed for and the grounds advanced are the same in all these cases, all the applications are being disposed of by this common order. It may be mentioned that the first prayer in all these applications for fixing the pay on promotion as Driver Grade 'C' in 1983 in terms of Railway Board's letter dated 3.2.1958 and for consequential arrears had been rejected by our order dated 22.8.1990 at the admission stage itself as barred by limitation and condonation of delay was refused.

2. By letter dated 26.6.1985 the Railway Board issued orders for restructing of certain C and D Group posts for cader review as a result of which 31 posts of Driver'C' were upgraded as Driver 'B'. According to the respondent, proforma fixation was given to these promotions from 1.1.1984 but actual effect was given from 1.1.1985 in terms of the above order. The applicants contend that they were also promoted and posted asDriver 'B' from Driver 'C' in 1985 or 1986 on account of this same restructuring order and they were also entitled to proforma fixation pay in the Driver Group 'B' post with effect from the upgradation in order of their seniority.

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3. In their written reply, however, the respondents have denied that the applicants were promoted as Driver'B' as the result of restructuring orders but that their promotions weremade subsequently against normal vacancies. It is not in dispute that the applicants did not come within the number of upgraded posts namely 31 and evidently could not be given benefits of the restructuring scheme when the restructuring order was implemented for the 31 senior most Driver 'C'.

4. The learned counsel for the applicants, however drew our attention to the order at Ex.2 of the written reply, all promotions in which, according to him are against the upgraded posts. This, however, is denied by the counsel for the respondents. Evidently, this list of orders promotions of 45 Drivers 'C' which cannot all be against the upgraded posts which admittedly are only 31 in number. The very first para of this same order states that the number of upgraded posts is only 31. The remaining 14 promotions should evidently be against normal vacancies. We therefore reject the contention that the promotion of applicants was againstthe upgraded posts of the restructuring scheme and not against normal vacancies.

5. Learned counsel for the applicants also produced before us a copy of Railway Board letter No.PCIII/81/FE-II/4 dated 27.6.1985, in which it has been decided that whereever implementation of their order dated 29.7.1983 and 20.12.1983 has been delayed resulting in benefits being given after 1.1.1984 in chain/resultant vacancies, the benefits should be given uniformly with effect from 1.1.1984. The argument of the learned counsel for the applicants is that the applicants were promoted in chain/resultant vacancies and, therefore, the benefits of this order be given to the applicants.

.4.

It is not possible for us to accept this contention. This order specifically mentions that the benefits in that order should be given in chain or resulting vacancies arising from restructuring schemes covered under their letters dated 29.7.1983 and 20.12.1983, whereas the present restructuring scheme was under letter dated 25.06.1985.

6. The learned counsel for the applicants next argued that in some other cadres like that of Electric Loco Driver A/ Moterman, Bombay division, the benefits of pay fixation on the date of resultant vacancies have also been given and therefore, the refusal of the same benefit to the present applicants is discriminatery and violative of article 14 and 16 of the Constitution. He also produced a copy of the circular dated 14.11.1986 of the Central Railway Divisional office, Bombay VT in support of this contention. Apart from the facts that it is for the first time that this letter is produced before us without filing any rejoinder till today to the written reply of the respondent which was dated 18.7.1990, this letter produced by the learned counsel for the applicants, specifically states that it is being issued in consideration of the fact that the certain employees working as Driver Gr.A prior to 1.1.1984 were senior to Motorman according to the channel of promotion. According, they were considered for being posted as Driver 'A' specifically from 1.1.1984 with monetory benefits from 1.1.1985. Obviously they stand on a separate footing being in a separate cadre and the decision

having been taken in consideration of a certain anomaly having arisen in their case. The contention of discrimiation against the applicants has also, therefore, to be rejected.

7. On the basis of above, we do not see any merit in these applications, which are rejected with no order as to costs.