

CENTRAL ADMINISTRATIVE TRIBUNAL,  
MUMBAI BENCH.

Original Application No.154/2001.

Friday, this the 17th day of August, 2001.

The Hon'ble Shri Justice Ashok Agarwal, Chairman,  
The Hon'ble Shri G.C.Srivastava, Member (A).

1. Motilal Agnool Gupta,  
Officiating Sr. Clerk,  
under Dy. CSTE,  
Microwave,  
Central Railway, CST,  
Mumbai.
2. Brijpal Gajadhar,  
Officiating Sr. Clerk,  
under Sr. Section Engineer,  
(Signal/Maintenance),  
Central Railway,  
Thane.
3. Anil Dehu Kocharakar,  
Junior Clerk under  
Sr. Divn. S & T Engineer,  
Central Railway,  
CST, Mumbai.
4. Usman Asmatalli,  
Jr. Clerk,  
under Sr. Section Engineer,  
(Signal/Construction),  
Central Railway,  
Thane.
5. Uttam Pandurang,  
Jr. Clerk, under Sr. Section Engineer,  
(Signal/Construction) Central Rly.,  
Kalyan.
6. V.A. Johnson,  
Jr. Clerk,  
Under Sr. Section Engineer,  
(Signal/Construction)  
Central Railway,  
Kalyan.
7. M. Poopal Alagan,  
Jr. Clerk, under Sr.  
Section Engineer,  
(Signal/Maintenance), Central Railway,  
Thane.
8. Kundalik Vithoba Kulat,  
Jr. Clerk,  
under Sr. Section Engineer,  
(Signal / Construction),  
Central Railway,  
Kalyan.
9. Sagar Prasad Laxman  
Jr. Clerk, under  
Sr. Section Engineer,  
Signal (Stores),  
Central Railway,  
Kurla.

10. Bhimrao Pawaji Bawaskar,  
Jr. Clerk,  
Under Sr. Section Engineer,  
Signal/Construction,  
Central Railway,  
Thane.

(By Advocate Shri S.N. Pillai)

...Applicant.

v.

1. Union of India through  
The General Manager,  
Central Railway,  
CST, Mumbai - 400 001.
2. The Divisional Railway Manager,  
Central Railway,  
Mumbai Division,  
CST, Mumbai - 400 001.

(By Advocate Shri V.S. Masurkar)

...Respondents.

: O R D E R (ORAL) :

Shri S.C. Srivastava, Member (A).

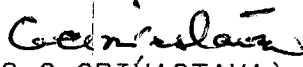
In this Original Application, the applicants who are Junior Clerks under the Respondents are aggrieved against the order dt. 1.2.2001 issued by the respondents for formation of panel for the post of Jr. Clerk in the grade of Rs.3,050-4,590. Their contention is that since they have already been found fit for promotion as Material Checker in 1986 on the basis of selection conducted by Respondents in that year and as the promotion to the post of Jr. Clerks is only on the basis of seniority no selection is required to be conducted for the same. They also contend that some of the employees empanelled as Material Checker in 1986 have already been promoted as Jr. Clerks/Sr. Clerks on regular basis without subjecting them to a fresh selection process. They have accordingly claimed that they should not be subjected to selection as required vide the impugned order dt. 1.2.2001 and should be declared as Junior Clerks on the basis of their having been selected in the year 1986 as Material Checker.

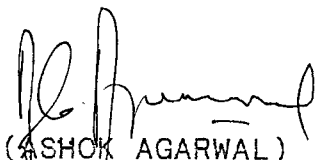
2. In their reply, the Respondents have stated that in the year 1986, selections were conducted for formation of panel viz. Jr. Clerk and Material Checker and those who were promoted from that panel as Material Checker are required to appear in the selection for the post of Jr. Clerks, if they so wish to be promoted as Jr. Clerk on regular basis. According to them, Jr. Clerk is a selection post and one can get promotion only after he qualifies in the selection. Mere officiation as Jr. Clerk does not confer any right on anybody to claim promotion as Jr. Clerk on a regular basis unless one qualifies in the selection. They further contend that the applicants have challenged the impugned order dt. 1.2.2001 without even representing to the Respondents about their grievance and some of them have also applied for the fresh selection in pursuance of the impugned order.

3. We have examined the rival claims in this regard and find that the applicants have approached this Tribunal without exhausting the available departmental remedies. Although there is a case made out by the applicants in their favour, inasmuch as, that they claim that one set of employees who were working as Material Checkers based on the selections held in 1986 have already been regularised as Jr. Clerks and some of them even as Senior Clerks. Whereas, the present applicants are being forced to take the test for being regularised as Jr. Clerks/Sr. Clerks. However, considering the fact that the applicants have not approached the departmental authorities with their claims before filing this OA, we consider that the ends of justice will be met if the OA is disposed of with a suitable direction to the respondents to consider their claims. Accordingly, we direct

that the OA be treated as a representation from the applicants and the Respondents shall consider the same in the light of the contentions raised in the OA, as well as, Rules and Regulation on the subject and pass/communicate to them a speaking order within a period of three months from the date of receipt of copy of this order. The status of the applicants as on today would be maintained for a period of one month after the communication of the aforesaid speaking order.

4. With the above directions, the OA stands disposed of. No order as to costs.

  
(G.C. SRIVASTAVA)  
MEMBER(A)

  
(ASHOK AGARWAL)  
CHAIRMAN

B.