

CENTRAL ADMINISTRATIVE TRIBUNAL
BENCH AT MUMBAI

ORIGINAL APPLICATION No. 421/92 99

Date of Decision: 30.4.97

T. Rozario & 30 ors.

Petitioner/s

Mr. M S Ramamurthy

Advocate for the
Petitioner/s

V/s.

U.O.I. & Ors.

Respondent/s

Mr. V.S. Masurkar

Advocate for the
Respondent/s

CORAM:

Hon'ble Shri B S Hegde, Member(J)

Hon'ble Shri P P Srivastava, Member(A)

- (1) To be referred to the Reporter or not ? ✓
- (2) Whether it needs to be circulated to other Benches of the Tribunal ?

MEMBER(A) / (J) *[Signature]*

*Member (J)
may see
[Signature]*

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH, 'GULESTAN' BUILDING No.6
PRESCOT ROAD, MUMBAI-400001

OA No. 421/92

DATED : 30th DAY OF APRIL, 1997

CORAM : Hon'ble Shri B S Hegde, Member(J)
Hon'ble Shri P P Srivastava, Member(A)

1. T. Rozario
2. J C Sarkar
3. A R Parmar
4. V M Thalkar
5. Vinod Mistry
6. Phiroz Govekar
7. P P Raut
8. P N Patel
9. K H Hazare
- 10 B V Rao
- 11 Mahadeo Raut
- 12 Smt. Aruna Kate
- 13 Smt. Safia Ismail
- 14 Smt. Rajni Gavli
- 15 Smt. D L Joshi
- 16 S D Deshpande
- 17 N S Sablani
- 18 Ram Lal Kori
- 19 S V Parab
- 20 J S Satardekar
- 21 Smt. V V Joshi
- 22 Smt. Urmila V Mewadi
- 23 M S Patankar
- 24 M S Negi
- 25 D B Gopal
- 26 Narayan Samant
- 27 R S Sawant
- 28 Miss. Anita P.Jagtiani
- 29 Kalubhai R. Surit
- 30 Shamrao D. Harjan
- 31 Smt. Vrinda P. Gore

All the above applicants
(except applicant no.1) are
working as Clerk Gr.II in the
Office of Sr.Divisional
Accounts Officer, Western
Railway, Bombay Central,
Mumbai 400008 and in the
office of Financial Advisor and
Chief Accounts Officer, Western
Railway, Churchgate,
Mumbai 400020
C/o. Mr. Ramesh Ramamurthy,
Advocate, CAT, Mumbai

By Adv. Mr. M S Ramamurthy, Counsel

..Applicants

V/s.



.2.

1. Union of India,
through the General Manager,
Western Railway,
Churchgate, Mumbai-20
2. Chairman through General
Manager, Western Railway,
Churchgate, Mumbai-20
3. Financial Advisor and
Chief Accounts Officer,
Western Railway,
Churchgate, Mumbai 20
4. Sr.Divisional Accounts Officer,
Western Railway
Bombay Central
Mumbai 8

(By Mr. V S Masurkar, Central
Government Standing Counsel)

..Respondents

O R D E R

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[PER: P.P. SRIVASTAVA, MEMBER(A)]

1. This O.A. has been filed by a group of employees who are working in the Ministerial Cadre of the Accounts Department as Clerk Grade-I/II. In the Accounts Department of the Railways there is an examination which is known as Appendix-II Examination, which is required to be passed for purpose of promotion from Clerk Gr.II to Clerk Gr.I and onwards for 80% of the posts. The Clerk Gr.II who cannot pass Appendix-II Examination can seek promotion only against 20% of the cadre of Clerk Gr.I. The applicants have submitted that before Shankar Sharma Tribunal Award the promotion to Clerk Gr.I was on the basis of 20% by Direct Recruitment and remaining 80% from amongst the Clerks Gr.II who had passed the Appendix-II examination.



2. The Applicants have further submitted that progressively the percentage of Direct Recruits for Clerk Gr.I has been increased from 20% to 80% and that the present position is that in the grade of Clerk Gr.I 80% posts are filled by direct recruitment and only 20% posts are filled by promotion. Out of this 20% only 25% are filled by those who are not qualified in the Appendix-II examination and 75% of the 20% are filled from amongst those Clerks Gr.II who had passed the Appendix-II examination.

3. Learned counsel for the applicants submits that before change in the direct recruitment percentage from 20% to 80% for filling up the Clerk Gr.I posts, the applicants were entitled to about 12 to 13 posts out of hundred for promotion from Clerk Gr.II to Clerk Gr.I. Counsel for the applicant therefore argued that the chances of promotion has been drastically reduced for those employees like the applicants who have not been able to qualify in the Appendix-II examination.


4. Counsel for the applicant also has argued that a representation date 16.7.90 was submitted to the administration by the applicants bringing out the above facts. This representation of the staff was forwarded by the Sr.DAO, Bombay Central to the FA&CAO, Churchgate, Western Railway. The FA&CAO informed the Sr. DAO BCT vide his letter of August, 1990 (Exhibit N) that the said representation has been forwarded to the Railway Board



- iv) The existing ratio of clerks Grade I to Clerk Grade II should be improved from 60:40 to 80:20 in a phased manner.
- v) To insure that the existing clerks Gr-II have adequate chances of promotions, App. II exam. should be held regularly once a year. Financial Adviser and Chief Accounts Officer, however, may decide to hold the examination more often if required.

8. The counsel for the respondents has argued that all that the Administration has done is that it has followed the policy which has been decided by the Railway Board in consultation with the JCM.

9. Counsel for the respondents has also argued that as far as the applicants are concerned almost all the applicants have got more than one promotion, as most of the applicants joined Railway service as Class IV employees and have become Clerk Gr. II after getting promotion. Some of the applicants have also been promoted from Grade II to Grade I. Therefore, on the basis of the facts concerning the present application there cannot be any cause of action as the applicants have got the promotion and the channel of promotion is open to them for further promotion according to rules. Counsel for the respondents had also argued that the



argued that the present decision is a policy issue in which staff Union and both the recognized Federations of the employees were consulted. It is also argued that the OA is barred by limitation and it is not open for challenge as the grievance dates back to 1980.

7. Counsel for the applicant submitted that as a measure of policy Railway Board restructured staffing pattern of Accounts Department in consultation with the JCM and the policy was communicated vide Board's letter dated 16.5.80. Salient features of the scheme have been brought out by the respondents in their reply at page 10 which read as under:-

- i) The clerical staff of Railway Accounts Department would basically consist of Clerk Grade-I, in the scale of Rs.330-560 and would account for 80% of the total clerical cadre.
- ii) 80% of the total strength of Clerk Gr.I would be filled by direct recruitment of graduates.
- iii) Directly recruited clerks Grade I would be given a training condensed into a concentrated course over a period of three months. It should be ensured that the new recruits are adequately trained in the work of the office.



- iv) The existing ratio of clerks Grade I to Clerk Grade II should be improved from 60:40 to 80:20 in a phased manner.
- v) To insure that the existing clerks Gr-II have adequate chances of promotions, App. II exam. should be held regularly once a year. Financial Adviser and Chief Accounts Officer, however, may decide to hold the examination more often if required.

8. The counsel for the respondents has argued that all that the Administration has done is that it has followed the policy which has been decided by the Railway Board in consultation with the JCM.

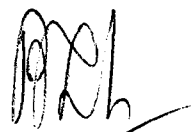
9. Counsel for the respondents has also argued that as far as the applicants are concerned almost all the applicants have got more than one promotion, as most of the applicants joined Railway service as Class IV employees and have become Clerk Gr. II after getting promotion. Some of the applicants have also been promoted from Grade II to Grade I. Therefore, on the basis of the facts concerning the present application there cannot be any cause of action as the applicants have got the promotion and the channel of promotion is open to them for further promotion according to rules. Counsel for the respondents had also argued that the

APL

for consideration. It is also mentioned in the said letter that on receipt of a reply from the Board the same will be communicated to the Sr.DAO-BCT. The counsel for the applicants submit that no reply to this representation has been received from the Railway Board so far.

5. Counsel for the applicant has also argued that the decision of the administration in changing the prospects of promotion of persons like the applicants is arbitrary and is violative of Articles 14 and 16 of the Constitution of India.

6. Learned counsel for the respondents on the other hand has argued that the promotional prospects are matters of policy and various orders of restructuring of the cadres providing percentage in various grades had been considered in the light of requirement of services as well as allowing promotional prospects to the majority of the employees in the cadre. Counsel for the respondents has also argued that various restructures have been done in consultation with Committee of Departmental Counsel of JCM. On the basis of recommendation of a similar committee it was decided in 1980 to progressively increase the recruitment for Grade I category from 20% to 80%. The percentage for Direct Recruitment therefore has been increased to 80% from 1.4.80. Counsel has also



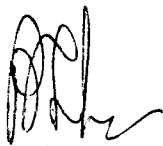
instructions which are issued by the administration in consultation with the JCM are not the issue on which the Tribunal may interfere with the authority of the administration for deciding promotions to various categories of clerks.

10. After hearing both the parties, we are of the view that the issue involved in this OA concern the policy matter and restructuring of cadres. The restructuring of the cadres has been made in consultation with JCM wherein the staff Union and both the recognized Federations under the Railways were consulted in decision making. The Railway Board policy concerning restructuring of Accounts Department Cadre enumerated by the Railway Board in their letter dated 15.5.80 the salient features of which have been quoted above cannot be considered arbitrary or against the interest of staff. It is a fact that when the percentage for higher grade are increased and percentage for direct recruitment is increased, then percentage for promotion in lower grade decreases. In the present case as a measure of policy the Railway administration has decided to increase percentage of direct recruits to 80% progressively in the category of Clerk Gr.I. No exception can be made to this policy decision and we do not see any reason to interfere with the policy decision of the administration. If the administration considers in the exigency of service that the Accounts Department should be constituted mainly from Direct recruits, the since this decision has been taken



in consultation with the Federation and Staff Union, we see no reason to interfere with it. It has also been brought to our notice that the administration has already a scheme for promoting those who have not been able to get promotion to ensure atleast one promotion in the service career. This scheme has been introduced by the administration in terms of the Railway Board letter dated 5.2.92 as has been brought out in the written statement. We are of the opinion provision of this scheme has adequately provided relief to those who are stagnated and are unable to find place for promotion by reason of not being able to pass Appendix.

11. In view of above discussions we are of the opinion that there is no merit in this O.A.. The same is dismissed. No order as to costs.



(P.P. Srivastava)

Member(A)



(B.S. Hegde)

Member(J)

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