

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH
ORIGINAL APPLICATION NO.497/1994
this the 21st day of July, 2000

CORAM:

HON'BLE SHRI A.V.HARIDASAN, VICE CHAIRMAN
HON'BLE SHRI GOVINDAN S.TAMPI, MEMBER (A)

1. Shri R.G.Pagare, working as Asstt. Station Master at Ambermath Railway Station and residing at Railway Quarter No.H-7, Dombivili, Dist.Thane.
2. Shri Ramlochan R.Sharma, working as Asstt. Station Master at Ghatkopar Railway Quarter, Central Railway Colony, Kurla, Bombay-600 024.
3. Shri Vinodkumar Sharma, working as Assistant Station Master, at Ambernath Railway Station and residing at Railway Quarter, Ambernath, District-Thane.
4. Shri Navinkumar, working as Assistant Station Master, at Ambernath Railway Station and residing at Railway Quarter, Ambernath, District-Thane.
5. Shri S.R.Sharma, working as Cabin Assistant Station Master Ashok Nagar, Walduni, Kalyan, Distt.Thane. ..Applicants

(By Advocate Shri G.K.Masand)

vs.

1. Union of India through the General Manager, Central Rly, Bombay V.T.
2. Divisional Railway Manager, Central Railway, Bombay V.T.
3. Shri Sitaram Yashwant working as Asstt.Yard Master, Poona Yard.
4. Shri A.T.Mathew, working as Asstt.Yard Master, Bombay V.T.Yard.
5. Shri Jagannath Paul, working as Asstt.Yard Master, Bombay V.T.Yard.
6. Shri N.S.Pusalkar, working as Asstt.Yard Master, Bombay V.T. Yard.

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7. Surendra G. working as Asstt.
Yard Master,
Bombay V.T.Yard.
8. K.M.Inasu, working as Asstt.
Yard Master, Kurla Carshed.
9. T.R.Mishra, working as
Asstt.Yard Master at
Bombay V.T.Yard.
10. A.D.Karendikar, working as Asstt.
Yard Master, at Byculla.
11. Hari Shankar Deviram working as
Asstt.Yard Master at Lonavala.
12. M.Daniel working as Asstt.
Yard Master at Kalyan Yard.
13. S.K.Sexena working as Asstt.
Yard Master at Kalmboli Yard.
14. R.S.Paul working as Asstt.
Yard Master, at Bombay
V.T.Yard.
15. Joy A. Abraham working as
Asstt. Yard Master at Kalyan Yard.
16. Shankar Narayan T.T. working as
Asstt. Yard Master at Kalyan Yard.
17. V.K.Singh, working as Asstt.
Yard Master, at Bombay V.T.Yard.
18. Daniel Christian, working as
Asstt. Yard Master at Trombay Yard.
19. Vipin Gupta working as Asstt.
Yard Master, at Kalyan Yard.
20. Pradeep Kumar Das, working as
Asstt.Yard Master at Pune Yard.
21. Rajesh Kumar Singh working as
Asstt.Yard Master at Kalyan Yard.
22. Khalid Azad, working as Asstt.
Yard Master, at Dehuroad Military siding.
23. T.G.Abraham, working as
Asstt.Yard Master at Kalyan Yard.
24. G.M.Shafi working as Asstt.
Yard Master at Trombay Yard.
25. Ashok R.Bhatia working as
Asstt.Yard Master at
Kalyan Yard.

(By Advocates Sri S.C.Dhawan and Sri K.B.Rajan)

ORDER

HON'BLE SHRI A.V.HARIDASAN, VICE CHAIRMAN: The applicants 5 in number are Assistant Station Masters in the Station Master's cadre in the pay scale of Rs.1400-2300 at various places in the Central Railway. They are aggrieved by the order dated 18.3.1994 No.813 of 1994 issued by the second respondent promoting

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the respondents 3 to 25 who belonged to the distinct cadre of Yard Master towards the posts in the scale Rs.1600-2660 created in the cadre of Station Master to which the applicant belonged, according to them, against the Railway Board's order of restructuring dated 27.1.93 and clarificatory order dated 9.2.94. The facts can be very briefly stated as follows.

2. The Station Master's cadre and Yard Master's cadre are distinct and separate. The cadre of Station Masters consist of the following posts:-

- a) Station Superintendent in the scale of Rs.2375-3500
- b) Deputy Station Superintendent (Rs.2000-3200)
- c) Station Master/Assistant Station Master/Cabin Assistant Station Master (Rs.1600-2660)
- d) Assistant Station Master/Cabin Assistant Station Master (Rs.1400-2300)
- e) Assistant Station Master (Rs.1200-2040)

3. The cadre of Yard Masters consist of the following categories of posts :-

- a) Chief Yard Master (Rs.2375-3500)
- b) Deputy Chief Yard Master (Rs.2000-3200)
- c) Yard Master (Rs.1600-2660)
- d) Assistant Yard Master (Rs.1400-2300)

50% of the posts in the grade of Yard Master in the scale Rs.1400-2300 are filled by inducting those working in the Station Master's grade, 20% by promotion from the yard

staff such as Shunting Master, Senior Train Clerk in the scale Rs.1200-2040 and the balance 30% by promotion of Goods Clerks in the scale Rs.1200-2040. The respondents 3 to 25 who were in the Station Master's cadre in the scale Rs.1400-2300 and junior to the applicants having opted for switching over to the Yard Master's cadre against the 50% quota were inducted into the Yard Master's cadre in the year 1992. Though the Station Master's cadre and Yard Master's cadre are distinct and separate, for promotion to the scale of Rs.1600-2660 , the cadre of Station master and Yard Master are notionally combined and promotion made in the ratio 7:3 i.e. 70% for the Station Master's cadre and 30% from the Yard Master's cadre on the basis of a common selection/suitability test. The vacancies in the Station Master's cadre as also in the Yard Master's cadre in the scale 1600-2660 are clubbed together and promotions made in the ratio 7:3. This is the normal method of promotion to the scale of Rs.1600-2660 in the cadre of Station Masters as also Yard Masters.

4. The Railway Board on a review of the cadre of certain Group C and D posts in consultation with the Staff Side of the Committee of the Departmental Council of the J.C.M. and with the approval of the President issued an order dated 27.1.93 restructuring certain Group C and D cadre with effect from 1.3.93. It was specifically provided that the restructuring of the cadre would be with reference to the sanctioned cadre strength

as on 1.3.93 and the staff would be placed against higher grades as a result of the implementation of the order with effect from 1.3.93. As a result of the restructuring the number of posts in the scale Rs.1600-2660, which was 76 and 10% of the total cadre strength was revised to 182 posts and 20% resulting in addition of 106 posts in the scale Rs.1600-2660 and a proportionate reduction in the lower grade. Similarly in the scale Rs.2000-3200 the pre-existing 23 posts which was 9% of the total strength was increased to 109 posts and 15% with an addition of 46 posts in that grade. Against 7 posts in the scale Rs.2375-3500 which was only 1% of the cadre strength on restructuring, the number of posts were increased to 22 raising it to 3% of the cadre strength. The position in the Yard Master's cadre on restructuring was that in the scale Rs.1600-2660 posts were 54 amounting to 40% of the cadre strength and there was no change even after restructuring. In the scale Rs.2000-3200, there were 24 posts which came to 18% of the cadre strength prior to the restructuring and after restructuring the number of posts were reduced to 23 lowering it to 17%. In the scale Rs.2375-3500, prior to restructuring there were 3 posts, which had been on restructuring increased to 4. Though as per the Railway Board's letter dated 27.1.93, the restructuring of the cadre should be with reference to the sanctioned cadre strength as on 1.3.93, some of the Zonal Railways entertained a doubt as to whether in filling up of the posts created by restructuring, the normal avenue of promotion which in certain cases involved selection of

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incumbent from other cadre in addition to the employees of the relevant cadre should be followed or not. The Railway Board after examining the matter issued a letter dated 9.2.94 No.PC/3/93/CRC/1 stating that in the Board's letter dated 27.1.93 it had been clearly stated that the restructuring would be with reference to the cadre strength as on 1.3.93 and as the purpose of cadre restructuring was to remove the stagnation in the cadre, the benefit of restructuring would be restricted to the persons borne on the particular cadre on the cut off date. However the Central Railway Administration adopted the method of selection to the restructured posts in the Station Master's cadre in the scale Rs.1600-2660 and made promotion in the ratio 7:3 and promoted respondents 3 to 25 belonging to the Yard Master's cadre in the posts in the scale Rs.1600-2660 by order dated 9.2.1994 and also reserved 13 vacancies in favour of staff in the Yard Master's cadre who were undergoing Slip 45 course at the Principal Zonal Training Institute. Aggrieved by this, the applicants have filed this application for a declaration that the posts in the Station Master's cadre upgraded as a result of the restructuring by Railway Board's letter dated 27.1.93 can be filled only by those members of the Station Master's cadre as on 1.3.93 and that the respondents 1 to 2 are not entitled to apply the ratio 7:3 while filling up the upgraded posts in the Station Master's cadre and for direction to respondents 1 to 2 to fill up the upgraded posts in the Station Master's cadre only from the members of the cadre as on 1.3.93 setting aside the order dated 18.3.94 by which the

respondents 3 to 25 were promoted, restraining the Railway Administration from applying the 7:3 formula while filling up the upgraded posts in the Station Master's cadre.

5. The respondents 1 and 2 contend that since vacancies in the scale Rs.1600-2660 in the cadre of Station Master as also Yard Master are to be filled by clubbing the vacancies and on the basis of a common seniority of the Station Masters as also Yard Masters in the scale Rs.1400-2300 in the ratio 7:3, even for filling up of the posts upgraded on account of restructuring, the 7:3 formula has to be followed and the Railway Board's letter dated 9.2.1994 has no application. They contend that the Railway Board's circular would apply only in cases where there are separate cadres and separate channels of promotion.

6. On behalf of respondents 3 to 25 except respondent 21, a common reply statement is filed, contending that as the Railway Board's letter dated 27.1.93 does not spell out any alteration of the existing norms of promotion, the contention of the applicants is not tenable.

7. We have gone through the pleadings and materials placed on record with meticulous care and also heard the learned counsel Sri Masand who appeared for the applicants and Sri S.C.Dhawan, who appeared for

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the respondents 1 and 2 and Sri Rajan, who appeared for the respondents 3 to 25.

8. The short question that arises for consideration is whether even for filling up of the posts in the scale of Rs.1600-2660 in the Station Master's cadre created by upgradation as a result of the restructuring by the Railway Board's letter dated 27.1.93, the normal norms of promotion of clubbing the vacancies and apportioning it between the Station Master's cadre and Yard Master's cadre in the ratio is to be followed.

9. It is a fact undisputed that as a result of the restructuring in the Station Master's cadre, there has been an addition of 106 posts in the scale Rs.1600-2660 and a corresponding reduction in the lower grade, whereas in the Yard Master's cadre even after restructuring, the posts in the scale Rs.1600-2660 remained 44 as prior to restructuring, meaning thereby there has not been any upgradation at that level. Prior to the restructuring the posts in the scale Rs.1600-2660 in the Station Master's cadre was only 10% of the total cadre strength which was enhanced to 20% on account of the restructuring, whereas in the Yard Master's cadre there were 54 posts in the scale Rs.1600-2660 before and after restructuring and this amounted to 40% of the cadre strength. It is also an undisputed fact that the cadre of Station Master and

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that of Yard Master are distinct and separate, though in the normal course of promotion as is decided by the Central Railway while making promotion to the posts at the level of Rs.1600-2660 the vacancies in both the cadre, namely the Station Master's cadre and the Yard Master's cadre would be clubbed together and promotion made on the basis of a common seniority in the ratio 7:3 between the Station Masters and Yard Masters. According to the Scheme of restructuring conveyed by the Railway Board's letter dated 27.1.93, the restructuring is to be done with reference to the sanctioned cadre strength as on 1.3.93. Paragraph 1 of the Scheme reads as follows:-

"This restructuring of cadres will be with reference to the sanctioned cadre strength on 1.3.93. The staff who will be placed in higher grades as a result of implementation of these orders will draw pay in higher grade with effect from 1.3.93."

The above would mean that the benefit of restructuring would be available to the staff borne on the cadre as on 1.3.93 to be placed in the higher grade with effect from 1.3.93 and that the staff who did not belong to the cadre on that date would not be entitled to get the benefit. While in spite of this provision in the Railway Board's letter, it was not clear to many Zonal Railways as to whether the normal norms of promotion while staff belonging to another cadre is also available for promotion, a clarification from the Railway Board was sought and the Railway Board has issued the letter dated 9.2.94, which reads as follows:-

M/

The General Managers,
All Indian Railways & Production Units,

Sub: Filling up of the restructured vacancies.

Kindly refer to Board's letter No.PCIII/91/CRC/1 dated 27.1.93 under which certain categories of Group C & D have been restructured w.e.f. 1.3.93. While filling up such vacancies, doubts have been raised as to whether the normal avenues of promotion, which in certain cases involve selection of incumbents from other feeder cadres in addition to the employees of the relevant cadre should be followed or the benefit of promotion should be restricted only to the eligible persons of the relevant cadre. The matter has been examined and it is clarified that:-

- (i) In para 1 of the letter dated 27.1.93, it has been clearly stated that the promotion will be with reference to cadre strength as on 1.3.93.
- (ii) Since one of the purposes of cadre restructuring is to remove the stagnation in the cadre, the benefit of the cadre restructuring should be restricted to the persons borne on the particular cadre on the cut off date.

These instructions may be kept in view while implementing the cadre restructuring orders."

As the Station Master's cadre and Yard Master's cadre are undisputedly two distinct and separate cadres, in the face of the clarificatory letter of the Railway Board, quoted supra, we are of the considered view that the members of the Station Master's cadre alone would be entitled to be placed in the posts in the higher grades created by upgradation in the cadre. The doubt entertained by the Zonal Railways as to whether in cases where the normal avenues of promotion, which in certain cases involve selection of incumbents from other feeder cadres in addition to the employees of the relevant cadre, should be followed or the benefit of promotion should be restricted only to eligible persons of relevant cadre, has been clearly answered by the Railway Board stating that the benefit of cadre restructuring has

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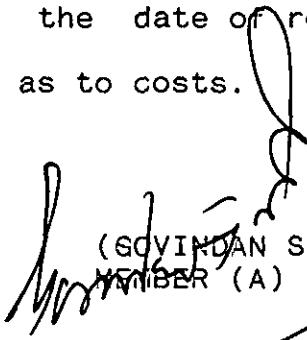
to be restricted to the persons borne on the particular cadre on the cut-off date. In the light of the above unambiguous clarification given by the Railway Board in its letter dated 9.2.94, it was improper for the CPO, Central Railway, Headquarters Office, Personal Branch, Bombay VT to have issued the letter No.HPB/778/TDT/RESTRUCTURING dated 18.3.1994, Exhibit II to the reply statement of the respondents 1 and 2 stating that in terms of the instructions contained in letter dated 25.7.1990, the posts of Dy SS/Dy CYM/MVI/TWI in grade Rs.1600-2660 (RPS) to be filled from SMs and YMs cadres in 70:30 ratio. The instructions contained in this letter is opposed to the Railway Board's instructions contained in the letter dated 9.2.1994 which is binding on all the Zonal Railways. It can be seen that the cadre of Station Masters also the cadre of Yard Masters have been subjected to restructuring. The percentage of higher posts in the cadre of Yard Masters was very much higher than that in the Station Master's cadre. That is probably the reason why the number of posts in the scale Rs.1600-2660 remained the same in the Yard Master's cadre even after restructuring. Probably it was felt that there was no stagnation in the Yard Master's cadre. Therefore there is no justification to throw the updated posts in the scale Rs.1600-2660 created in the Station Master's cadre to the common hotchpot for being divided between the Station Master's cadre and the Yard Master's cadre.

In the conspectus of facts and circumstances, the application is allowed declaring that against the upgraded posts in the Station Master's cadre in pursuance of the restructuring of the cadre by the Railway Board vide its letter dated 27.1.93, only the members of the cadre of Station Masters

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as on 1.3.93 are eligible to be promoted and that the ratio 7:3 is not to be adopted in filling up of the upgraded posts in the Station Master's cadre consequent on the restructuring. We set aside the promotion of respondents 3 to 25 by office order No.8/3/94 issued under No.BB/P/558/GT/DY/SS/DY/CYM/MV/TNI/TI dated 18.3.92 declaring it unsustainable in law and direct the respondents 1 to 2 to fill up all the upgraded posts in the Station Master's cadre in the scale Rs.1600-2660, only from the staff working in the Station Master's cadre as on 1.3.93. The above directions shall be complied with within a period of three months from the date of receipt of a copy of this order. There is no order as to costs.


(SOVINDAN S.TAMPI)
MEMBER (A)


(A.V.HARIDASAN)
VICE CHAIRMAN

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI

R.A.No.49/2000 in
O.A.No.497/1994

Dated the 11th January 2001

CORAM: HON'BLE SHRI A.V.HARIDASAN, VICE CHAIRMAN
HON'BLE SHRI GOVINDAN S.TAMPI, MEMBER (A)

Union of India & Ors. Respondents
in the O.A.
(By Advocate Shri Suresh Kumar)
vs.

Shri R.G.Pagare & Ors. Applicants
in the O.A.

O R D E R

HON'BLE SHRI A.V.HARIDASAN, VICE CHAIRMAN:

The respondents in the O.A. have filed the Review Application have sought a review of the order dated 21.7.2000. We have carefully gone through the Review Application, the order sought to be reviewed and the pleadings in the case. The sole ground on which the review is sought is that "the finding of the Hon'ble Tribunal to the extent that the cadre of Station Master and Yard Master are distinct and separate are not based on any material on record and is perverse and and is required to be corrected as well as in practice this is not followed.... ". It therefore is evident that the respondents/Review Applicants are in this Review Application challenging the merits of the decision. We are of the view that can be done only in an appeal and not in a review application. There is no error apparent on the face of record nor is there any facts or circumstance which justify or call for a review of the

**CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH**

C.P.77/2001 IN
OA NO.497/94

DATED:29/1/2002

1. Shri R.G.Pagare & 4 Ors. ... Applicants

V/s.

1. Union of India & 24 Ors. ... Respondents

Per Smt.Shanta Shastry, Member(A)

This CP-77/2001 is filed against improper implementation of the orders passed in OA-497/94 dated 21/7/2000. The operative part reads as follows:-

In the conspectus of facts and circumstances, the application is allowed declaring that against the upgraded posts in the Station Master's cadre in pursuance of the restructuring of the cadre by the Railway Board vide its letter dated 27/1/1993 only the members of the cadre of Station Masters as on 1/3/93 are eligible to be promoted and that the ration 7:3 is not to be adopted in filling up of the upgraded posts in the Station Master's cadre consequent on the restructuring. We set aside the promotion of respondents 3 to 25 by office order No.8/3/94 issued under No.BB/P/558/GT/DY/SS/DY/CYM/MV/TNT/TI dated 18/3/92 declaring it unsustainable in the law and direct the respondents 1 and 2 to fill up all the upgraded posts in the Station Master's cadre in the scale of Rs.1600-2660, only from the staff working in the Station Master's cadre as on 1/3/1993. The above directions shall be complied with within a period of three months from the date of receipt of a copy of this order. There is no order as to costs.

2. The respondents have implemented the aforesaid direction vide Exhibit R-1 (page-27 of the CP), 106 Assistant Station Masters have been promoted as Station Masters w.e.f. 1/3/93 in the grade of Rs.1600-2660 (RPS).

3. The contention of the applicants is that some Station Masters in the grade of Rs.1600-2660 were further promoted by upgradation to the higher scale of Rs.2000-3200 and scale of Rs.2375-3500. Thus, the resultant vacancies which arose in the scale of Rs.1600-2660 ought also to have been filled up from the Station Masters Cadre in addition to the 106 posts which were created through upgradation in the re-structuring process. In short, according to the applicants all the posts in the Station Masters Cadre in the scale of 1600-2660 should have been filled up through Assistant Station Masters.

4. According to the respondents they have complied with the direction given by the Tribunal in that the directions were to fill up all the upgraded posts in the Station Master's Cadre in the scale of Rs.1600-2660 only from the staff working in the Station Masters Cadre as on 1/3/93. There were originally 76 posts of Station Masters in the grade of Rs.1600-2660. 106 posts came to be upgraded to the grade of 1600-2660. Therefore since the direction of the Tribunal was to fill up these 106 posts from the Station Masters' cadre, the respondents have complied with the same by promoting of the Assistant Station Masters to the upgraded posts. There is no reference or direction in the judgement of the Tribunal to fill up the resultant vacancies. Had there been any shortage in the figure of 106 due to resultant vacancies, then it would have been binding on the respondents to fill up those posts through Assistant Station Masters and not otherwise. The respondents deny that any contempt has been made in this matter.

5. The learned counsel for the applicants reiterated the stand that even the resultant vacancies should have been filled up through the Assistant Station Masters.

6. We have heard the learned counsel for both the sides and have given careful consideration to the points made. In our considered view, the Tribunal's direction was very clear that all the upgraded posts in the Station Masters' Cadre in the scale of Rs.1600-2660 should be filled up only from the staff working in the Station Masters Cadre as on 1/3/90. It does not refer to any resultant vacancies arising due to promotion of certain Station Masters from the grade of 1600-2660 to the higher grade of Rs.2000-3200. Therefore the applicants cannot have a claim to the resultant vacancies. We therefore hold that the respondents have complied with the directions of the Tribunal fully and they are not liable to any contempt. Accordingly the contempt proceedings are dropped and the alleged contemnors are discharged. C.P. is dismissed.

Shanta Shastray
(SMT. SHANTA SHAstry)
MEMBER(A)

B. Dikshit
(BIRENDRA DIKSHIT)
VICE CHAIRMAN

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