

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

Date of Order : 4 Mar 2002

O.A. No. 1454/1995.

1. Shri B. T. Bhalerao, Head Clerk, D.R.M's Office, Central Railway, Bombay V.T.
2. Shri M. G. Wankhede, Head Clerk, D.R.M's Office, Central Railway, Bombay, V.T.
3. Smt. Omna Koral, Head Clerk, D.R.M's Office, Central Railway, Bombay V.T.
4. Smt. Usha D. Ingle, Head Clerk, D.R.M's Office, Central Railway, Bombay V.T.

... APPLICANTS.

v e r s u s

1. The Union of India through the General Manager, Central Railway, Bombay V.T.
2. The Divisional Railway Manager, Central Railway, Bombay, V.T.
3. Shri P. Vasudevan, Head Clerk, D.R.M's Office, C. Rly., Bombay, V.T.
4. Shri S.N. Waghmare, Head Clerk, D.R.M's Office, Central Railway, Bombay, V.T.
5. Shri N. R. Bhalerao, Head Clerk, D.R.M's Office, Central Railway, Bombay V.T.
6. Smt. M.S. Mahadik, Head Clerk, D.R.M's Office, Central Railway, Bombay, V.T.

... RESPONDENTS.

Shri K. B. Talreja, counsel for the applicants.
Shri S. C. Dhawan, counsel for the respondents.

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Hon'ble Mr. M. P. Singh, Administrative Member.
Hon'ble Mr. J. K. Kaushik, Judicial Member.

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: O R D E R :
(per Hon'ble Mr. J. K. Kaushik)

In this application filed under Section 19 of the Administrative Tribunals Act, 1985, the applicants who are four in number have interalia prayed as under :

- "(i) The Hon'ble Tribunal may kindly be pleased to direct respondent No. 1 & 2 to amend the panel of successful candidates by placing the applicants over and above those SC candidates, who have been selected on 'RELAXED STANDARD'.
- (ii) The Hon'ble Tribunal may kindly issue necessary directives to Respondent No. 1 and 2 as deemed it fit and appropriate in the circumstances of the case.
- (iii) The Applicants also pray to saddle the cost of this petition on the Respondents, who have failed to honour the guidelines of the Railway Board."

2. The brief facts of the case are that applicants as well the Private respondents belongs to Scheduled Caste category. Private respondents are undisputedly senior to the applicants on the post of Head Clerk. Their case is that a selection was conducted to the post of Office Superintendent (P/2) (herein referred to O.S. (P/2), for brevity) in the pay scale of Rs. 1600-2660 (R.P.S.). They have averred that a selection penal was prepared and all the

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private respondents have been empanelled under relaxed standard vide Annexure A-1. It has been said that they (Private Respondents) passed the written test in relax standard. They have averred that as per the Headquarter's instructions and the guidelines issued by the Railway Board, Annexure A-2, SC/ST candidates coming in the zone of consideration by virtue of their overall merit/seniority should not be counted as candidates against the resered vacancies and the applicants should be placed above the private respondents in the penal.

3. Notices of this O.A. have been issued to the respondents and the respondents have filed reply to the O.A. and have contraverted the contentions of the applicants. They have also submitted an extract of the relevant rules governing the selection as Annexure A to the reply to the O.A. They have averred that the private respondents have passed the selection and were duly empanelled on the post of O.S. (P/s) as per the rules in force.

4. Subsequently a M.A. has been filed on behalf of the applicant Annexing the letter dated 20.08.1997 vide which the benefits of upgradation has been extended to the private respondents to this O.A. All the private respondents have been promoted to the post of O.S. (P/2) in the grade of Rs. 1600-2660 under Restructuring Scheme dated 27.01.1993 w.e.f. 01.03.1993 after following the modified selection procedure. In this M.A.,

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the applicants have prayed that they may be considered for promotion against the S.C. quota vacancies in the grade of Rs. 1600-2660 which have become vacant as a result of retrospective promotion of the private respondents.

5. We have heard the learned counsel for the parties and have carefully perused the records of the case.

6. At the very outset, it would be pertinent to mention that the O.A. is misconceived application. The confusion is paramount when an M.A. is filed for seeking a different relief than the one which was asked for in the O.A. However, it would suffice to observe that once the private respondents have been given the benefits under restructuring scheme from a prior date i.e., 01.03.1993, selection to the post of O.S. (P/2) in the grade of Rs. 1600-2660 held in the year 1995 (Annexure A-1) itself become redundant and ineffective. The private respondents have enjoyed their promotion under an upgradation/restructuring scheme by going through a modified selection procedure without having any relevancy to the selection of 1995. They have got their said promotion as their seniority and suitability based on the records of their services, in accordance with, the special procedure prescribed for grant of benefits under restructuring scheme.

7. Nextly, the private respondents have been given the promotion to the post of O.S. P/2 in the scale of Rs. 1600-2660

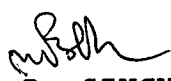
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w.e.f. 01.03.1993 and they continue to hold these posts even in the year 1995. The concept of vacancy as a result of preponing the date of promotion of the private respondents is nothing but confusion. No post remained for consideration of the applicants. Thus, this O.A. has become infructuous and no relief can be granted to the applicants especially when it is not the case of the applicants that any of their junior has been extended the benefit of promotion under restructuring scheme. Thus, it has become infructuous and no cause of action survives for adjudication.

8. In view of the aforesaid discussion, this O.A. does not survive and the same is hereby dismissed as infructuous. Costs made easy.


(J. K. KAUSHIK)
Judl. Member


(M. P. SINGH)
Adm. Member

Joshi

dt 4/3/02
Order/Judgment despatched
to App *pendent (s)*
on 02/4/02
