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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH

ORIGINAL APPLICATION NO. 188 OF 1995

Prakesh Roopchand and 23 Ors.. Applicants

v/s.

UNION OF INDIA & ORS. .. Respondents

SUR-REJOINDER ON BEHALF OF RESPONDENTS.

1. The Respondents submit that the Applicants has filed Rejoinder on 18 July 1995 and has brought on record some additional averments and therefore, the same requires to be rebutted by filing the Sur-rejoinder and the same is as under :

2. With reference to para 1 of the Rejoinder, the Respondents repeat and reiterate that the statement in the aforesaid written reply is made under a strict rules and procedure, hence the allegation made by the Applicant by denying the content is baseless and therefore, denied in to-to.

3. With reference to para 2 of the Rejoinder, the Respondents once again state@

that the statement made in the Written reply is on the basis of record and the Applicants have not made a single representation, whereas instead of making a self representation. The Applicants have approached the Union i.e. so called Central Railway Mazdoor Sangh. The Respondents state that the so called Union is not the authority and the Applicants have no right to rely upon the representation made by C.R.M.S. As the rule requires that the Applicants should have made representation to the administrative authority bringing out the grievance and after making such representation if they did not received any reply or if they are aggrieved with the reply, only then they can approach this Hon'ble Tribunal and therefore, the present application is prematured under section 21 of Administrative Tribunal Act 1985.

4. With reference to para 4 and 5 of the Rejoinder, the Indian Railway have done away the Steam Loco and introduced Diesel Locos and Electric Locos, the Applicants rendered surplus in Steam Shed and were absorbed in other department as per their willingness.

The Respondents deny that DRM(P) BSL has forced these Applicants to accept for any Class-IV job, whereas, the Applicants were screened and selected and placed on the panel for the post of 2nd Fireman under letter dtd. 28.6.91/12.7.91. Total 89 employee of Shed /C.H. and R&M (steam) in Class-IV were placed on the Panel including these Applicants. Since steam traction is also abolished the panel for the post of 2nd Fireman formed/published on 28.6.91/12.7.91 was treated as scrapped with approval of competent authority. The Railway Board's directives dtd. 15.3.90 are applicable for conversion training of surplus Steam running staff in diesel/Elect. Traction and not for promotion to the post of diesel/AC Asstt. from YKC, SKR, Coalman etc.

The 42 employees, who have already been selected prior to the declaration of panel dtd. 28.6.91/12.7.91, as such they are senior to the Applicants. Name of Shri Madhukar Soman, C/Boy, BSL has been deleted from the panel dtd. 2.8.90, since he has found below Eight standard. In any case the Applicants have not impleaded the necessary

and essential parties and hence on this ground alone the O.A. deserves to be dismissed.

Thus, it can be seen that the employee screened and placed on panel for the post of Diesel Asstt/AC Asstt. on the available of vacant post are senior to the Applicant, hence, their posting to Diesel Asstt, AC Asstt. are justified and legal as per to rules. The Respondents deny the rest of the allegations of the Applicants in to-
to.

5. With reference to para 6 of the Rejoinder, the Respondents state that the true position is already explained in the written statement dated 20.7.95. The procedure laid down by the Government cannot be overruled, nor the Application filed by the Applicants has sufficient reasons to proof the flaw in administration's procedure. The respondents, therefore, request the Hon'ble Tribunal to dismiss the Original Application with costs.

VERIFICATION

I, A. K. Dayama, DPO, having my office in the DRM(P) Central Railway, Bhuswal, do hereby state on solemn affirmation that whatever is stated in reply to the Rejoinder is true to my personal knowledge and belief as revealed from the perusal of the official record on the subject and also state that no material aspects has been suppressed.

PLACE : MUMBAI

DATE : 8/4/1999


A. K. Dayama

For RESPONDENTS.


(VINAY S. MASURKAR)
Addl. Cent. Govt. Sr. Standing Counsel
for the Respondents.