

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

* * *

Date of Decision: 9.5.97

OA 485/93

1. Prashant Rao, Assistant Signal & Telecommunication Engineer, Western Railway, Jaipur.
2. Manoj Arora, Assistant Signal & Telecommunication Engineer, Western Railway, Jaipur.

... Applicants

Versus

1. Union of India through Railway Board, Western Railway, Churchgate, Bombay.
2. Shri T.S.Harchandani c/o General Manager (Establishment), Western Railway, Churchgate, Bombay.

... Respondents

CORAM:

HON'BLE MR.GOPAL KRISHNA, VICE CHAIRMAN

HON'BLE MR.O.P.SHARMA, ADMINISTRATIVE MEMBER

For the Applicant

... None

For the Respondents

... Mr.Manish Bhandari

O-R-D-E-RPER HON'BLE MR.GOPAL KRISHNA, VICE CHAIRMAN

Applicants, Prashant Rao and Manoj Arora, in this application u/s 19 of the Administrative Tribunals Act, 1985, have prayed for the following reliefs :-

- "i) That the order dated 15.9.1992 be struck down and Railway Board should be directed to promote the applicants in the senior scale with effect from 6.3.1993 when the applicants had completed four years of service, with all consequential benefits.
- ii) Any other appropriate relief which may be found just and proper in the facts of the case."

2. None is present for the applicant. We have heard the learned counsel for the respondents.

3. It is an admitted position by the respondents that the present case is squarely covered by a decision of the Principal Bench of the Central Administrative Tribunal in OA 574/93, decided on 4.8.95, in which the Principal Bench has held as follows :-

"39. In the circumstances, we dispose of this OA with the following

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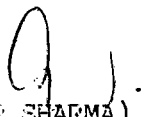
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declarations/orders and directions:

- (i) It is not competent for the Railways to appoint as many as persons by promotions as they like; in disregard of the provisions of Rule 4 which stipulates the quota for promotion and direct recruitment. Repeated violent departures from the quota rule will lead to collapse of the quota rule (Direct Recruit's case-supra) and therefore of the linked seniority rule (B.S.Gupta's case-supra).
- (ii) The principle of weightage in seniority will be limited to promotees appointed against their quota.
- (iii) As the rules stand at present, the maximum quota for promotees is only 40%. It cannot be raised further by relaxation, as Government has no such power.
- (iv) Vacancies not filled in a year - whether in the direct recruitment quota or promotee quota - can be carried over, but all such vacancies have to be filled in the subsequent years by both methods on the basis of the quota mentioned in Rule 4.
- (v) Out of the 127 appointments made by the Annexure A-1 order dated 15.9.1993, promotion should be deemed to have been made to the extent of 40% of the vacancies in 1993 which have been computed tentatively at 89 (para 34 supra) subject to departmental verification. They alone are entitled to weightage and seniority on the seniority principles (vii) and (ix).
- (vi) The remaining 38 persons, subject to departmental verification, have been promoted in excess of the promotion quota and they are not entitled to weightage in seniority on the basis of the Annexure A-1 order. Their promotions shall be treated as ad hoc only. They can be treated as regularly promoted against the quota for promotees in 1993 and thereafter. In that case, such promotees can be given weightage from the dates their promotions are regularised.
- (vii) The Annexure A-1 order shall stand modified to the extent indicated above.

40. The OA is disposed of as above. No costs."

4. It is accepted by the respondents that the judgement delivered by the Principal Bench is in rem. Therefore, the declarations/orders/directions of the Principal Bench in the aforesaid OA shall be applicable to the present case also. The respondents are accordingly directed to apply these declarations/orders/directions in the present case and pass appropriate orders in the present case in the light of these, within a period of four months from the date of receipt of a copy of this order. No order as to costs.


(O.P.SHARMA)
ADMINISTRATIVE MEMBER


(GOPAL KISHNIA)
VICE CHAIRMAN