

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

DATE OF ORDER: 23/3/2001

1. OA 83/94

1. Om Prakash Sharma son of Shri Dhan pal Sharma aged 30 years, Electrical Fitter Grade II in the office of CTFO (TRD), Western Railway, Kota, resident of 2-K-40, Teachers Colony, Keshav Pura, Kota.
2. Shri Brij Gopal Sharma son of Shri Satya Narain Sharma aged about 30 years, Electrical Fitter Grade II in the office of CTFO (TRD), Western Railway, Sawaimadhopur, resident of PE-7A, Type -II, Railway Colony, Meter Gauge, Sawaimadhopur.

2. OA 82/94

Abdul Salim Abbasi son of Shri Allah Banda aged 29 years, Electrical Fitter Grade II at present working in the office of CTFO(TRD), Western Railway, kota, resident of RE Type II-2A, New Railway Colony, Kota.

....Applicants

VERSUS

1. The Union of India through the General Manager, Western Railway, Churchgate, Mumbai.
2. The Divisional Railway Manager, Western Railway, Kota.
3. The Sr. Divisional Electrical Engineer, Traction Distribution (Estt.), Western Railway, Kota.
4. Shri Chhotey Lal Singh.
5. Shri Vishnu Kumar Gautam
6. Shri Abdul Kasim
7. Shri Padam Chand Jain
8. Shri Atul Kumar Jain
9. Shri Ram Pravash Yadav
10. Shri Pradeep Kumar Jain
11. Shri Shiv Ram Jangid

12. Shri Balkeshwar Tiwari
13. Shri Shivraj Singh Solanki

Respondents from sl. no. 4 to 13 are working on the post of Electric Fitter Gr. (I) under the control of Sr. Divisional Electrical Engineer, TPD, Western Railway, Kota.

....Respondents

Mr. P.V. Calla, Counsel for the applicant.

Mr. Hemant Gupta, Procy counsel for

Mr. M. Rafiq, Counsel for the respondents.

CORAM

Hon'ble Mr. S.K. Agarwal, Member (Judicial)

Hon'ble Mr. A.P. Nagrath, member (Administrative)

ORDER

PER HON'BLE MR. A.P. NAGRATH, MEMBER (ADMINISTRATIVE)

The cause of action and the relief in these two OAs are similar and they were heard together, therefore, they are disposed of through this common order.

2. Applicants, Abdul Salim Abbasi in OA no. 82/94 and Om Prakash Sharma & Another in OA 83/94 have filed these applications challenging order dated 8.11.93 issued by Sr. Divisional Electrical Engineer, TPD, Kota by which seniority list dated 17.6.93 has been amended. Consequent to this revision of the seniority list, trade test result was declared vide letter dated 22.12.93 which has also been challenged. By amending seniority, private respondents nos. 4 to 13 have been placed above the applicants and applicants aggrieved by this action and have filed these applications with a prayer that the impugned order dated 8.11.93 (Annexure A-1) and order dated 22.7.93 (Annexure A-2) in so far as these relate to respondents no. 4 to 13 be quashed and set aside. They have made a further prayer that the result declared vide order dated 22.12.93 (Annexure A-3) in so far as it relates to

respondents no. 4, 6, 7 and 9 to 12 and promotion order issued vide letter dated 1.2.94 in so far as it relates to respondents no. 4, 6, 7 and 9 to 12 be also quashed. They also sought direction to the respondents to maintain status quo as per letter dated 17.6.93 (Annexure A-11). The applicants have also made a prayer that they be allowed to appear in the trade test for the post of Electric Fitter Grade I scale Rs. 1320-2040 and if found suitable may be given all consequential benefits.

3. When these applications were taken up for hearing, the learned counsel for the respondents submitted before us that respondent department on its own, has cancelled the impugned order dated 8.11.93 by their order dated 5.8.94 and position as on 17.6.93 has been restored. This order has been annexed as Annexure E-4 and in the light of this fact, these two applications have become infructuous. Further, he stated that the respondents have been prevented from taking action for calling the applications for the trade test in view of the interim order passed by the Tribunal in OA 656/94, Pradeep Kumar Jain vs. Union of India & Others & Others. In that OA, orders were passed on 21.12.94 that the applicants shall not be reverted only on the ground of change of seniority. The learned counsel for the respondents contended that that the Department is unable to grant relief to applicants in these OA in view of this interim order dated 18.11.97. As recorded in the order sheet of OA 656/94 dated 21.11.95 that these OAs were heard by us alongwith OA 656/94. The order in OA 656/94 is being given separately.

4. The learned counsel for private respondents no. 4 to 13 opposed the stand of the official respondents and stated that by ~~Acryptic~~ order, the right which had already accrued to the private respondents cannot be taken away at the whims of the official respondents.

5. We have considered the rival contentions of the parties and we find that in OA 656/94, the private respondents have already challenged the official respondents' letter dated 5.8.94 and this matter is being decided in that OA. In the light of this fact and the stand taken by the official respondents that they have cancelled the impugned order in these OAs, we are of the view that these OAs have become infructuous and need to be disposed of accordingly. Any effect consequent to such cancellations also gets wiped out automatically.

6. In view of the facts and circumstances stated above, we dismiss these OAs as having become, infructuous. Parties left to bear their own costs.

SN
(A.P. NAGPATH)
MEMBER (A)

SK
(S.K. AGARWAL)
MEMBER (J)

TRUE COPY ATTESTED

Signature / 10-4-2004
Section Officer (Judicial)
Central Administrative Tribunal
Jaipur (Raj.) 302001