

## IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

O.A.No.174/94

Date of order:4.2.1998

1. Arvind Shinde, S/o Shri Shankar Shinde, Kailash Puri, Kota.
2. Devendra Kumar, S/o Shri M.L.Avasthi, Qtr.No.245-D, Kota.
3. Mohd.Akram, S/o Shri Munshi Khan, J.P.Nagar, Kota.
4. Shyam Lal, S/o Shri Shankar Lal, Qtr No.245-D, Kota.
5. Ashok Kumar S/o Shri Yogendra, Hawari Falidi Bus Stand, Sawaimadhopur.
6. Sher Khan, S/o Shri Pir Khan, Old Railway Colony, Kota.
7. Ithem Faj, S/o Shri Chhotu Lal, Railway Workshop, Kota.
8. Jagdish, S/o Shri Harainji, Vill.Badhana Rangpur Road, Kota.
9. Mukesh Sharma, S/o Shri Sua Lal Sharma, WFS Colony, Kota.
10. Vijendra Kumar, S/o Shri Ram Lal, Nagal Electricals Mail Road, Kota.
11. Laxminarain Meena, S/o Shri Gandhi Lal Meena, WFS Colony, Kota.
12. Gopal, S/o Shri Devi Lal, J.P Colony, Rangpur Road, Kota.
13. Suresh Kumar, S/o Shri Jagdish Pd, Mahaveer Colony, Kota.
14. Erij Kishore, S/o Shri Jog Ram Singh, WFS Colony, Qtr.No.246A, Kota.
15. Pavan Kumar Sharma, S/o Shri R.C.Sharma, WFS Colony, Kota.
16. Sanjay Singh, S/o Shri Gau Faj Singh, WFS Colony, Kota.
17. Bal Kishan, S/o Shri Baidu Ram, Chawani, Kot.

...Applicants.

Vs.

1. Union of India through General Manager, Western Railway, Churchgate, Bombay.
2. Chief Works Manager, Western Railway, Kota Division, Kota.

...Respondents.

Mr.Shiv Kumar - Counsel for applicants

Mr.Manish Bhandari - Counsel for respondents

CORAM:

Hon'ble Mr.Gopal Prishna, Vice Chairman

Hon'ble Mr.O.P.Sharma, Administrative Member.

PER HON'BLE MR.GOPAL PRISHNA, VICE CHAIRMAN.

Applicants Arvind Shinde, Devendra Kumar, Mohd.Akram, Shyam Lal, Ashok Kumar, Sher Khan, Ithem Faj, Jagdish, Mukesh Sharma, Vijendra Kumar, Laxminarain Meena, Gopal, Suresh Kumar, Erij Kishore, Pavan Kumar Sharma, Sanjay Singh and Bal Kishan, in this application under Sec.19 of the Administrative Tribunals Act, 1985, have mainly sought a direction to the respondents to consider their candidature against the 25% direct recruitment quota from the open market against the vacancies promulgated vide order dated 25.11.1993 at Annx.A1.

2. We have heard the learned counsel for the parties and have gone through the record of the case carefully.

3. The applicants' case is that they have undergone training under the Trade Apprentice Act, 1961 at Kota Workshop in the Western Railway and

(11)

have passed the prescribed test in the trades of Welder/Fitter on dates mentioned against their names in para 4(1) of this application. The contention of the applicants is that in view of the provisions contained in Rule 159(1)(i) of the Indian Railway Establishment Manual Vol.I (Revised Edition 1989), the applicants are entitled to consideration for appointment as skilled Artisans Gr.III scale Rs.950-1500 in various Engineering Departments against the 25% quota by selection from amongst them since they are course completed 'Act Apprentices' alongwith other candidates from the open market. Pursuant to a notification issued for inviting applications for filling up vacancies under the 25% direct recruitment quota, the applicants submitted their application forms duly filled in the office of the Kota Workshop. There was another notification issued vide letter dated 24.12.1993 at Annex.A7, for filling up certain vacancies in the category of Skilled Artisans from amongst the wards of the serving employees. The applicants, however, were not considered for appointment in the category of Skilled Artisans. It is contended that nonconsideration of their candidature is unjustified. The respondents have stated that not only the apprentices under the Apprentice Act, 1961, who have been given training in the Wagon Repair Shop, Kota, or not, but also the candidates, who have passed ITI or Matriculation Examination may apply for the posts of Skilled Artisans against 25% quota from the open market when notification to fill up such posts is issued as per rules. The contention of the respondents is that apprentices do not get any right of appointment because they are given training under the aforesaid Apprentice Act, which does not contain any provision guaranteeing appointment to the post of Artisan but such Apprentices can apply in any establishment only when vacancies are notified in accordance with the instructions. It is also stated by the respondents that the applicants had submitted their application forms but since the same were not submitted in accordance with the instructions issued in the advertisement they were not entertained. The applicants, it is further stated by the respondents, should have routed their application forms through the Employment Exchange. It is also stated that the applications of the applicants have been accepted provisionally.

4. The learned counsel for the applicants relied on an authority reported in (1995) 29 ATC 171, U.P.State Road Transport Corporation & Anr. Vs. U.P.Parivahan Nigam Shishukhs Beroogar Sangh & Ors, wherein their lordships of the Hon'ble Supreme Court have observed that "it would not be just and proper to go merely by what has been stated in Section 22(1) of the Act, or for that matter, in the model contract form. What is indeed required is to see that the nation gets the benefit of time, money and energy spent on the trainees, which would be so when they are employed in preference to non-trained direct recruits. This would also meet the legitimate expectations of the trainees." para 12 of the aforesaid

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judgment of Hon'ble the Supreme Court reads as follows:

"12. In the background of what has been noted above, we state that the following would be kept in mind while dealing with the claim of trainees to get employment after successful completion of their training;

(1) Other things being equal, a trained apprentice should be given preference over direct recruits.


(2) For this, a trainee would not be required to get his name sponsored by any employment exchange. The decision of this Court in Union of India Vs. N.Hargopal would permit this.

(3) If age bar would come in the way of the trainee, the same would be relaxed in accordance with what is stated in this regard, if any, in the service rule concerned. If the service rule be silent on this aspect, relaxation to the extent of the period for which the apprentice had undergone training would be given.

(4) The training institute concerned would maintain a list of the persons trained yearwise. The persons trained earlier would be treated as senior to the persons trained later. In between the trained apprentices, preference shall be given to those who are senior."

5. In the circumstances, we direct the respondents to consider the candidature of the applicants against the 25% direct recruitment quota from the open market in terms of Rule 159(1)(i) alongwith other candidates for the post falling in the category of Skilled Artisans Gr.III, scale Rs.950-1500 in the various Engineering Departments as and when the selection is held keeping in view the guidelines laid down by Hon'ble the Supreme Court in the case cited supra. The applicants shall apply for the aforesaid post as and when vacancies to fill up such posts are notified.

6. The O.A is allowed accordingly with no order as to costs.

  
(O.P.Sharma)

Administrative Member.

  
(Gopal Krishna)

Vice Chairman.