

(12)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR

Date of Order: 4.4.2000

OA No. 559/94

1. Hemant Sharma son of Late Shri C.K. Sharma aged about 44 years, Resident of Railway New Colony, Kota, Presently posted in ECRC, Western Railway, Kota.
2. Moti Lal Meena son of Shri Gopiram Meena aged 39 years, Resident of Shastri Colony, Ganeshpura Road, Kota Junction, Kota.
3. Ajmat Ali Khan son of Shri Ahemad Khan aged about 43 years, Resident of Railway Quarter No. 442 B, New Railway Colony, Kota Junction, Kota.
4. Vishmohar Singh Son of Shri Gulab Chand Verma aged about 40 years, Resident of near Rajendra Hotel, Dadwara, Kota Junction, Kota.
5. Chaturbuj Jagarwal son of Shri Kanwar Lal Jagarwal aged about 37 years, Resident of Opp. Sindhi Dharamshala, Shivaji Nagar, Kota Junction, Kota.
6. Anil Kumar Bhargava son of Shri Mumut Behari Lal Bhargava, aged about 40 years, Resident of Opp. Central School, Bhargava, Sadan, Kota.
7. Suresh Guar son of Shri J.P. Gaur aged about years Resident of Rajvilla Near Post Office, Kota.
8. Mukesh Bhatanagar son of Shri Kaleshwar Prasad, Bhatnagar aged about 40 years.
9. Naresh Pal Singh son of Shri Dhyanpal Singh, aged about 42 years, Resident of 2 Ba 19, Dadabari, Kota.
10. Teekam Chand Meena son of Shri Banshi Lal Meena, aged about 34 years, Resident of Near Mansingh Ki Building, House No: 936, Ward No. 1, Dadwara, Kota.

.... Applicants

Versus

1. Union of India through the General Manager, Western Railway, Church Gate, Bombay.
2. The Divisional Railway Manager, Kota Division, Western Railway, Kota.

.... Respondents

Mr. P.P. Mathur, Proxy Counsel to  
Mr. R.N. Mathur, Counsel for the applicant.  
Mr. Anupam Agarwal, Proxy Counsel to  
Mr. Manish Bhandari, Counsel for the respondents.

CO RAM:

Hon'ble Mr. Justice B.S. Raikote, Vice-Chairman (J)  
Hon'ble Mr. N.P. Nawani, Administrative Member.

ORDER

(PER HON'BLE MR. JUSTICE B.S. RAIKOTE, VICE CHAIRMAN)

This application is filed for a direction directing the respondents to prepare a common seniority list for the Commercial Clerk, Reservation Clerk and Booking Clerk etc. in the Western Railway. A further prayer is that an appropriate direction may be issued to apply the circular of the Railway Board dated 15.12.89 to the applicants also. It is further stated that Circular of the Railway Board dated 6.8.89 by which the different categories were merged may be given effect to even in the case of the applicants for the purpose of maintaining the common seniority list of the Commercial Clerk, Reservation Clerk, Booking Clerk etc.

2. In the application, it is stated that the applicants were working in different cadres like Commercial Clerk, Reservation Clerk and Booking Clerk prior to the date 15.12.89, on which date these cadres were sought to be merged by the decision of the Board. The Order dated 15.12.89 is the order directing merger of all the Commercial Clerks. Relevant portion of the order is extracted as under:-

"Board have decided that as an experimental measure all cadres of commercial staff (like commercial clerks whether on the coaching side or the goods side, commercial inspectors and Enquiry-cum-Reservation clerks) other than Ticket checking and catering staff should be merged into one unified cadre as per the schemes outlined below:

1. This scheme will come up into force with effect from 1st June, 1990. In other words all persons appointed to any of the categories mentioned above whether by direct recruitment, promotion or otherwise after 1.6.90, will belong to the unified cadre. The unified cadre will thus be applicable to new entrants only."

3. From the conditions appended to the order, it is clear that the present scheme vide order dated 15.12.89 shall come into effect on 1.6.90. It is further mentioned in the condition that this scheme would apply only to those persons who would be promoted or appointed to the commercial staff on or after 1.6.90. In other words according to these conditions, the scheme was made to operate prospectively. Regarding the other commercial staff which was already available in the Department, this Scheme was not made applicable.

4. The applicants were already working as commercial staff etc. even prior to 1.6.90. If that is so, this Scheme would not apply to the applicants. In other words, applicants are not the persons who are governed by Annexure A-2 dated 15.12.89. This Scheme does not operate so far as others are concerned. In this view of the matter, the relief sought that there shall be a common seniority list for the applicants and other similarly situated who are already working on the said posts prior to 1.6.90 and others cannot be granted. If that is so, there cannot be any direction of this Court directing respondents to prepare a common seniority list including those who are occupying the post prior to 1.6.90. Annexure A-2 dated 15.12.89 is a policy decision applicable prospectively.

5. In this view of the matter, the relief claimed for cannot be granted. The application is dismissed, in the circumstances without cost.

  
(N.P. Nawani)

MEMBER (A)

  
(B.S. RAIKOTE)  
VICE CHAIRMAN