

Date of order 12.9.94

1. OA 170/94

Kamlesh Kumar & Others : Applicants

v/s

Union of India & Others : Respondents

Mr. R.N. Mathur : Counsel for the applicants

Mr. P.V. Calla : Counsel for the private respondents

Mr. Manish Bhandari : Counsel for the Govt. respondents.

2. OA 198/94

Ashok Kumar Badsar & Others: Applicants

v/s

Union of India & Others : Respondents

Mr. R.N. Mathur : Counsel for the applicants

Mr. Manish Bhandari : Counsel for the Govt. respondents.

3. OA 247/94

Mr. Rama Nand & Others : Applicants

v/s

Union of India & Others : Respondents

Mr. R.N. Mathur : Counsel for the applicants.

Mr. P.V. Calla : Counsel for the private respondents.

Mr. Manish Bhandari : Counsel for the Govt. respondents.

CORAM

Hon'ble Mr. Gopal Krishna, Member (Judicial)

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

PER HON'BLE MR. O.P. SHARMA, MEMBER (ADMINISTRATIVE)

These three applications involve common questions of facts and law and are, therefore, disposed of by this common order.

2. In OA no. 170/94 there are 14 applicants, in OA no. 198/94 there are 6 applicants and in OA no. 247/94 there are 5 applicants. Thus altogether there are 25 applicants in these three applications. All these applicants had applied for the posts of Ticket Collectors

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to the Railway Recruitment Board, Ajmer, in response to advertisement no. 3/91 (XXXXXX/91). They were declared successful in the recruitment. Thereafter they were deputed for training to the Zonal Training School, Udaipur. After this training was complete, the General Manager, Western Railway, addressed letters (Annexure A-4) dated 16.7.93 to the Divisional Railway Managers, Ratlam, Ajmer and Jaipur, forwarding therewith names of candidates to be absorbed as Ticket Collectors in these Divisions, scale B. 950-1500 (RP). The applicants in these three applications are amongst those successful candidates whose names were forwarded for appointment/absorption as Ticket Collectors in the Jaipur Division. In spite of the fact that these candidates were made available for appointment/absorption in Jaipur Division in 1993, they have not been so appointed/absorbed so far. It is the case of applicants that the respondents want to deny them appointment/absorption in Jaipur Division on the ground, amongst others, that certain employees of Jaipur Division who have since been rendered surplus are proposed to be absorbed against vacancies of Ticket Collectors in Jaipur Division. The further case of the applicants is that certain appointments to the posts of Ticket Collectors are being made on compassionate grounds, thereby reducing the number of vacancies available against which the applicants are entitled to be appointed/absorbed in Jaipur Division. They have, therefore, prayed that the respondents may be directed to give appointment to the applicants/absorb them in Jaipur Division against the posts of Ticket Collectors.

3. The respondents in their reply have stated that merely by virtue of their selection/recruitment, the candidates have not acquired any right to be appointed/absorbed to posts under the Railways, much less be appointed in the Jaipur Division. Further according to them, the applicants have also given undertakings to the effect that they may be appointed/absorbed in any of the Divisions of the Western Railways. Further, according to the respondents, the reason for not absorbing/appointing the applicants in the Jaipur Division is that a large number of persons working

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against Group 'C' posts in the Division have been rendered surplus on the account of abolition of Loco Sheds, as a result of guage conversion. These persons have a prior right to be absorbed against the vacancies arising in Group 'C' posts in Jaipur Division.

4. In two of the applications, namely, 170/94 and 247/94, certain persons who have been rendered surplus on the abolition of posts of TMC have been impleaded as private respondents. It has been stated on their behalf that the applicants have not acquired any right to be appointed/absorbed in the Jaipur Division merely on account of their recruitment. Further the persons who have been rendered surplus within the Division have a prior right to be appointed to Group 'C' posts within the Division.

5. We have heard the learned counsel for the parties and have gone through the records.

6. This is a case in which justice has to be rendered to all the concerned parties. The persons who have been rendered surplus within the Division do have a right to be considered for absorption within the Division in suitable Group 'C' posts if there are vacancies available or are likely to arise in the near future and the posts of Ticket Collectors would also be available to them for their absorption. As far as the applicants are concerned, they have been recruited by the Railway Recruitment Board after being put through the process of written examination and interviews and they have also undergone training at the Zonal Training School, Udaipur. Regardless of whether they have acquired a right to be appointed to the posts of Ticket Collectors in the Railways as such in Jaipur Division, they have legitimate expectation that they would be appointed to posts for which they had been recruited. Since their names were forwarded to DRM, Jaipur Division for appointment/absorption in the Jaipur Division, it is logical for them to expect that they would be appointed/absorbed within the Division.

7. We had directed the learned counsel for the Government respondents to ascertain the position of vacancies of Ticket

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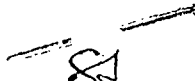
Collectors that would be available in the Jaipur Division, <sup>the number of</sup> ~~of these~~ persons <sup>within</sup> ~~with~~ the Jaipur Division who have been rendered surplus, and also to ascertain the position of vacancies of Ticket Collectors available in the neighbouring Divisions of Western Railway and also all other Divisions of Western Railway. The learned counsel for the Government respondents has not been able to ascertain the exact number of vacancies available for appointment/absorption of the applicants in Jaipur Division or in the other Divisions. However, he has stated that the Government respondents shall make all efforts to absorb as many of the applicants as possible within the Jaipur Division and the rest of them at the earliest in the neighbouring and other Divisions of the Western Railway. Three to four of the applicants have since expressed their willingness to be appointed/absorbed in the Bombay Division for the present and they can be offered appointments in the Bombay Division at this stage. So the immediate action of the Government respondents would be to offer appointments to the applicants as Ticket Collectors either in Jaipur Division or in the neighbouring or other Divisions of the Western Railway, for the present, wherever vacancies are available and the offers of appointment would be made in the order of their merit position in the select panel, the senior persons being offered appointments in the Jaipur Division, in the neighbouring Divisions and the other Divisions in that order. Once all the applicants have been given appointments/ are absorbed in the manner mentioned above, the respondents shall make efforts to bring all those back to the Jaipur Division, who have not been appointed in the Jaipur Division, as and when vacancies arise in the Jaipur Division. Thereby, according to the learned counsel for the Government respondents, all the applicants would be offered appointments immediately as Ticket Collectors without displacing the persons rendered surplus in the Jaipur Division.

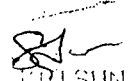
8. We have considered the matter carefully, In the circumstances of the present case, we direct the Government respondents that they shall in the first instance, offer appointments to the persons initially nominated for appointments as Ticket Collectors in the

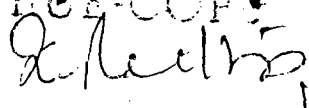
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Jaipur Division in the order of their seniority to the extent vacancies are at present available after considering cases of persons rendered surplus. Those who cannot be absorbed in the Jaipur Division for the reasons given by the government respondents, may be offered appointments in the neighbouring Divisions of Jaipur in the Western Railway and may also be offered appointments in other Divisions of the Western Railway in the order of their seniority in the merit list. Those of the applicants who have now expressed their willingness to be appointed/absorbed in the Bombay Division may be appointed/absorbed therein at present. As soon as vacancies start becoming available in the Jaipur Division, those of the applicants who are keen to come back to the Jaipur Division may be brought back to Jaipur Division in the order of their seniority. We make it clear that the persons brought back to the Jaipur Division in accordance with directions given above shall not lose seniority as per their original merit position. The directions given in this paragraph shall be applicable to all the persons whose names were forwarded for appointment/absorption as Ticket Collectors in the Jaipur Division, regardless of whether they have filed applications before the Tribunal or not. This is intended to ensure that no injustice is done to persons who may otherwise be senior to the applicants as per their merit position. We expect that the respondents shall appoint/absorb these persons in accordance with the above directions without any undue delay, as they have been awaiting appointments for over a year now. To make it clear that the right of the private respondents otherwise eligible for the posts of Ticket Collectors shall not be affected.

9. The O/s are directed as above, with no order as to costs.

  
(O.P. SHARMA)  
MEMBER(A)

  
(GOPAL PRISHINA)  
MEMBER(J)

CERTIFIED TO BE  
**TRUE COPY**  
  
Section Officer (Industrial)  
Administrative Tribunal  
Jaipur Bench, JAIPUR.  
19/9/94