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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

O.A.No.175/95

Date of order: 30.6.1998

1. Shri Riuaz, S/o Shri Abdul Sakoor, aged 32 years.
2. Shri Prakash, S/o Shri Kanwar Lal, aged 35 years.
3. Shri Bardha, S/o Shri Mathura, aged about 32 years.
4. Shri Ram Singh, S/o Shri Lahore, aged 36 years
5. Seeya, S/o Shri Gutti, aged about 33 years
6. Shri Dhoom Singh, S/o Shri Akala, aged 34 years.
7. Shri Ladu, S/o Shri Raghunath, aged 33 years.
8. Shri Bhanwar Lal, S/o Sh. Mohan Lal, aged 32 years.
9. Shri Babu Lal, S/o Ramchandra, aged 35 years.
10. Shri Shiv Karan, S/o Hazari, aged 32 years.
11. Shri Prithvi Singh, S/o Madan Singh, aged 37 years.
12. Shri Kanhaiya, S/o Harphool, aged 33 years.
13. Shri Chotulal, S/o Madhoji, aged 30 years.
14. Shri Revati, S/o Kalyan, aged 42 years.
15. Shri Tej Singh, S/o Shri Daulat Singh, 32 years.

All working as Casual Labour under PWI, Bundi, W.Railway
...Applicants.

Vs.

1. Union of India through General Manager, Western Railway,
Churchgate, Bombay.
2. Divisional Railway Manager, Western Railway, Kota.

...Respondents

None present on behalf of the applicants.

Mr.Zakhir Hussain - Proxy of Mr.M.Rafiq for respondents.

CORAM:

Hon'ble Mr.Ratan Prakash, Judicial Member.

PER HON'BLE MR.RATAN PRAKASH, JUDICIAL MEMBER.

Applicant Riuaz and 14 others have approached this Tribunal under Sec.19 of the Administrative Tribunals Act, 1985 to seek a direction against the respondents to screen them in accordance with the seniority list published on 16.11.92

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(Annex.A4) and absorb them against permanent posts in preference to persons junior to them who have been screened and absorbed permanently vide orders dated 27.5.94, 5.1.95 and 14.3.95 (Annexes.A1, A2 and A3 respectively). They have also sought a direction against the respondents not to transfer them from Kota Division without screening.

2. The facts available for disposal of this application in brief are that the applicants were initially appointed in the Project in Kota Division between 20.1.81 and 2.9.85, as per details given in Schedule-A of this O.A. They were granted temporary status on the dates ranging between 1.1.84 and 14.11.86 as per the details given in aforesaid Schedule-A. It is the grievance of the applicants that though they are senior in the seniority list of Casual Labours of the Engineering Department of Kota Division (Project Labours) dated 16.11.92; yet persons junior to them have been screened and absorbed against permanent posts vide orders dated 27.5.94 (Annex.A1), 5.1.95 (Annex.A2) and 14.3.95 (Annex.A3). Their representations made vide Annexes.A6 & A7 to the respondents to seek reliefs having gone futile. They have approached this Tribunal for redressal of their grievances.

3. The respondents have contested the O.A by filing a reply to the O.A to which no rejoinder has been filed. The stand of the respondents is that as per the seniority list dated 16.11.92, 9 applicants were called for screening, in the last screening test notified on 27.11.95; out of which 8 applicants have been placed in the panel notified on 29.12.95, as at Annex.R1. The details of which have been given in para 4(2) of the reply. Apart from these 8 applicants, the respondents state that one Shri Ram Singh, applicant No.4 has already been selected in the panel of 1991. Thus applicants upto Sl.No.9 in the O.A have been placed in the panel after screening.

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According to the respondents, screening of candidates upto Sl.No.703 in the seniority list dated 16.11.92 has been conducted. Applicants at Sl.No.4 and 10 to 15 in the O.A have not been screened so far and hence they have not been empanelled. Applicants at Nos.10 to 15 figure at Sl.No.727, 724, 895, 1160, 1016 and 1180 respectively in the seniority list dated 16.11.92 and therefore, they were not entitled to be screened. That the screening takes place depending upon the number of available vacancies against permanent cadre post. It has, therefore been asserted by the respondents that as and when next screening shall take place, the remaining applicants shall also be duly considered in accordance with rules/law. It is denied that persons junior to the applicants have been regularised against permanent post for Survey and Construction Department. Vide order dated 27.5.94 (Annex.A1) only such casual labours who were in Open Line were subjected to screening for the purpose of de-casualisation as they were engaged in the Track renewal works. According to the respondents initially 183 posts were allotted to Kota Division vide order dated 12/13.7.93 (Annex.B2) but subsequently this number was increased to 223 vide letter dated 1.3.94 (Annex.B3) of the Headquarters, i.e. General Manager, Western Railway, Bombay. In the said letter dated 12/13.7.93 (Annex.B2), it was stated that the Railway Board have allotted 924 posts to be de-casualised in the Western Railway against Track Renewal Works and that since the applicants were working in Survey & Construction Department, ^{they} had no right whatsoever against these posts. Further it has been averred that no candidate in the general category has been screened, selected and absorbed below Sl.No.703 in the combined seniority list dated 16.11.92. It is only such candidates who either belonged to Scheduled Caste or Scheduled Tribe category that have been so selected even though they have figured below

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Sl.No.703. In the case of Scheduled Caste candidates, persons appearing upto Sl.No.1085 have been screened and selected whereas Scheduled Tribe candidates upto Sl.No.684 have been screened and selected. That the number and names of the candidates given by the applicants in para 4 of the O.A are of persons who all belong to the reserved categories and therefore the applicants being not similar to them, hence there is no discrimination in their case. It has also been averred that there is no question of the transfer of the applicants; yet as and when the applicants' case for regularisation/absorption would be taken up against permanent cadre post; they have to be posted where-ever the vacancies would be available. It has, therefore, been urged that there is no merit in this application and it deserves rejection.

4. None has appeared on behalf of the parties today. On behalf of the applicants none has appeared since 6.8.1997 and this O.A being one of the old cases of the year 1995, pleadings of the parties have been perused and documents produced have been examined for its disposal on merits.

5. From the pleadings of the parties it is made out that the applicants are trying to reagitate the screening and selection made by the respondents vide their letter dated 15.6.90 which has been referred to in office order dated 14.3.95 (Annex.A3). The seniority list issued on 15.6.90, as stated by the respondents, relates to Open Line category labours and not the Survey & Construction Department to which the applicant belong. If at all the applicants had any grievance against this screening; they should have agitated this matter within limitation, when in fact, the present O.A has been filed by them on 24.4.95. No explanation whatsoever has been given by the applicants nor any application for condonation of delay has been filed. Not only this, in this O.A

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the applicants are also challenging the screening and selection done by the respondents vide their orders at Annexures A1, A2 and A3, by which a number of persons have already been screened and selected. None of these persons have been impleaded in this O.A though they are necessary parties. It was incumbent upon the applicants to implead all those persons who are likely to be affected in case the relief prayed for by the applicants is granted. Thus, this O.A is also bad for nonjoinder of necessary parties ~~and~~ ^{and 2} is liable to be dismissed on this ground alone. Moreover, as explained and stated by the respondents in their pleadings that no persons junior to the applicants have been screened and selected by the respondents upto Sl.No.703 out of the combined seniority list dated 16.11.92 except the candidates belonging to the SC and ST category, the grievance of the applicants that they have been discriminated or that the respondents have done the screening and selection by following pick and choose method or in an arbitrary manner is also not ~~substantiable. ^{for example} 2~~ ^{substantiable. ~~for example~~ 2}

6. For all the aforesaid reasons, there is no merit whatsoever in this O.A. It is dismissed with no order as to costs.

Ratan Prakash

(Ratan Prakash)

Judicial Member.