

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

Date of Decision: 19/11/2009

OA 222/96

1. R.S.Agarwal s/o Shri O.P.Agarwal r/o 111/53, Mansarovar, Jaipur.
2. N.K.Siddha s/o Late Shri B.K.Siddha r/o 10, Pam Nagar, Sodala, Jaipur.
3. Jagroop Singh s/o Shri B.P.Gujar r/o Qtr.No.6, Police Station, Ramganj, Jaipur.
4. Rajesh Jangid s/o Shri Birdhi Chand r/o 4, Bhardwaj Bhavan, NEC Road, Jaipur.
5. Pamesh Sharma s/o late Shri L.N.Sharma r/o F-196, Shyam Nagar, Jaipur.
6. Madan Meena s/o Late Shri M.F.Meena r/o Post Nathawala, Shapura, Distt.Jaipur.
7. Sanjay Kapoor s/o Late Shri B.K.Kapoor r/o K-1, Ganpati Nagar Railway Colony, Jaipur.
8. K.S.Yadav s/o Late Shri D.S.Yadav r/o 223/3, Railway Colony, Jaipur.
9. P.K.Sharma s/o Late Shri K.N.Sharma r/o Village Jagatpura, Tehsil Sanganer, Distt.Jaipur.
10. T.P.Singh s/o Shri Sahib Singh r/o 29-A, Hida Ki Mori, Jaipur.
11. Mrs.PAshmi Nagar w/o Late Shri Dinesh Nagar r/o 4, Bharav Nagar, Jaipur.
12. S.C.Gupta s/o Shri S.F.Gupta r/o A-31, Prem Nagar, Jhotwara, Jaipur.
13. Satish Pal s/o Shri S.S.Pal r/o 2, Vishnu Colony, ESI Hospital, Jaipur.

Applicants No.1 to 11 are presently working as Enquiry-cum-Reservation Clerk and Applicant No.12 and 13 are working as Assistant Reservation Supervisor in the office of DFM, Western Railway, Jaipur.



... Applicants

Versus

1. Union of India through General Manager, Western Railway, Churchgate, Mumbai.
2. Divisional Railway Manager, Western Railway, Jaipur Division, Jaipur.
3. Shri Y.K.Atri, Assistant Reservation Supervisor, DRM office, Western Railway, Jaipur Division, Jaipur.

... Respondents

CORAM:

HON'BLE MR.S.I.AGARWAL, JUDICIAL MEMBER

HON'BLE MR.A.P.NAGPATH, ADMINISTRATIVE MEMBER

For the Applicants

... Mr.P.P.Mathur, proxy counsel for

Mr.R.N.Mathur

For the Respondents

... Mr.Hemant Gupta, proxy counsel for

Mr.M.Rafiq

O R D E R

PER HON'BLE MR.A.P.NAGPATH, ADMINISTRATIVE MEMBER


Shri Y.K.Atri, private respondent, i.e. respondent No.3 in the OA, has been absorbed as Assistant Reservation Supervisor (ARS, for short) grade Rs.1400-2300 in the cadre of Enquiry-cum-Reservation Clerks (ECRC, for short) on his medical decategorisation. Before his absorption, vide order dated 28.11.95 (Ann.A/1), he was working as Goods Guard in the pay scale of Rs.1200-2040 and was medically decategorised. The Screening Committee recommended for his absorption as Head Booking Clerk (HBC, for short) or ECRC vide letter dated 23.8.95. The applicants belong to the cadre of ECRCs and are aggrieved by absorption of respondent No.3 into their cadre. Applicants No.1 to 11 are working as ECRC and applicants No.12 and 13 as ARS. They have challenged the



action of the respondents primarily on the ground that the cadre of ECRC is very small and absorption of respondent No.3 is in violation of the instructions of the Sonal Railway itself.

2. While opposing the absorption of respondent No.3 into their cadre, the applicants have referred to General Manager, Western Railway's letter dated 29.10.81, by which all DFMs have been directed that medically decategorised staff from other categories should not be absorbed as ECRCs as the post of ECRC is sensitive and the cadre is comparatively small. Another ground raised by the applicants is that by this absorption respondent No.3 has in fact been put in a higher grade than what he was holding in his parent cadre. They contend that such type of absorption after medical decategorisation cannot result into promotion of an employee and that too affecting adversely the rights of the employees working in the cadre in which such absorption is done. Learned counsel for the applicants referred to Railway Board's letter dated 6.12.71 and stated that respondent No.3 belonged to the running cadre and thus he could be absorbed only against the categories indicated in the Railway Board's letter dated 6.12.71. The category of ECRCs is not the category for the purpose of absorption of running staff in alternative categories. Main thrust of the argument of the learned counsel was that the cadre of ECRCs in Jaipur Division is very small and any induction from outside would have adverse repercussion on the career prospects of those ^{who} already belong to the cadre.

3. The respondents have denied that their action is not in consonance with the rules and that the cadre of ECRCs is small. It has been stated that the cadre of ECRCs consists of 62 posts, of which 22 in scale Rs.1400-2300 and 28 are in scale Rs.1200-2040. The respondents contended that their action is in accordance with Para 1309(iv) of IREM and also according to Railway Board's letter dated 10.6.94. The letter



dated 10.6.94 and relevant provisions of IREM provide that in the case of absorption of medically decategorised running staff on the alternative post, an amount of 30% (or any other percentage in force at the time) should be added to the minimum and maximum of the scale in which such running staff was posted to determine the equivalent grade in which he could be absorbed. In view of this rule, the amount of running allowance has been added to the minimum and maximum pay scale of the posts held by respondent No.3 and on that basis the post in the pay scale of Rs.1400-2300 has been identified as equivalent post.

4. Applicants had also raised a plea that respondent No.3 should have been absorbed as HEC as per recommendation of the Screening Committee or on any other post except BEFC. The respondents have clarified that at the relevant time there was no post vacant in the category of HEC, which post is also in the pay scale of Rs.1400-2300. The Screening Committee had found respondent No.3 suitable for absorption both on the posts of HEC and BEFC and thus they contend that there is no illegality committed by them in absorbing respondent No.3 as ARS.

5. We have perused the relevant provisions of IREM relating to absorption of medically incapacitated staff in alternative employment. Para 1309(iv) of IREM provides that while finding an alternative post for medically incapacitated running staff, 30% or such other percentage as may be fixed in lieu of running allowance should be added to the minimum and maximum of the scale of pay of the running staff for the purpose of identifying 'equivalent post'. The note below this rule states that care should be taken by railway administration to see that the interests of the staff in service are not affected adversely as far as possible and alternative appointment should be offered only in the post which the staff can adequately fill. Their suitability for the



alternative posts be judged by holding suitability test/interview as prescribed under the extant instructions.

6. In the instant case before us, there is no doubt about the suitability of respondent No.3 that was duly judged by the Screening Committee, which recommended his absorption in the categories of HEC or ECPC. The respondents have stated at the relevant time that there was no vacancy of HEC. In any case, if the medically decategorised staff is judged suitable for different categories, there can be no objection if his adjustment has been done against any of the categories for which he has been found suitable. Every alternative appointment of this nature would have some effect on the prospects of those who already belong to the cadre in which the absorption is being made. It is left to the competent authority to see how best to reduce the impact of such absorption on those already in the cadre. Main focus of the arguments on behalf of the applicants was that cadre of ECPC is small and that Railways' own letter of 29.10.81 instructed the divisions not to absorb medically decategorised staff in this category. We were informed that the situation from 1981 has drastically changed and the cadre of ECPCs is no more small and is in fact continuously expanding cadre because of new reservation terminals being opened and improved facilities of computerised reservation being provided. We have also seen one document (Ann.A/5), enclosed with the OA, which is a letter from Western Railway Employees Union dated 18.12.95. This letter makes a mention that on a previous occasion six Telegraph Signallers, who were surplus in their cadre, were absorbed as ECPCs with their original seniority. This in fact goes to prove that the cadre of ECPCs is no more small cadre and the respondents have also stated and mentioned that there are 62 posts in the cadre including 22 in the scale of Rs.1400-2300. Whether a cadre is small or large is a relative term and it is not for us to determine

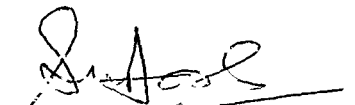


whether the particular cadre of ECRCs is small or large. Of course, if the cadre had only a few posts, say less than 10, one could think that the cadre was small but it cannot be so said about a cadre having 62 posts with 22 in the grade in which respondent No.3 has been absorbed. We find the action of the respondents very much in conformity with the laid down rules and procedure. The applicants have failed to make out any case in their favour, whatsoever.

7. We, therefore, dismiss this OA as having no merits. No order as to costs.


(A.F.NAGRATH)

MEMBER (A)


(S.K.AGARWAL)

MEMBER (J)