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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

O.A.No.320/96

Date of order: 4.3.1998

1. Mahendra Singh, S/o Shri Munshi Lal Bhardwaj, Loco Shed, Gangapurcity.
2. Kishan Lal, S/o Shri Charanji Lal, Western Railways, Gangapurcity.
3. Mohd Fafi, S/o Shri Deen Mohd, Western Railways, Gangapurcity.

...Applicants.

Vs.

1. Union of India through General Manager, Western Railway, Churchgate, Bombay.
2. Divisional Railway Manager(E), Western Railway, Kota Division, Kota.
3. Sr.Divisional Mechanical Engineer, Western Railway, Kota Division, Kota.
4. General Manager(E), Western Railway, Churchgate, Bombay.

...Respondents.

Mr.Shiv Kumar - Counsel for applicants

Mr.Manish Bhandari - Counsel for respondents

CORAM:

Hon'ble Mr.Gopal Krishna, Vice Chairman

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

PEF HON'BLE MR.O.P.SHARMA, ADMINISTRATIVE MEMBER.

In this application under Sec.19 of the Administrative Tribunals Act, 1985, S/Shri Mahendra Singh, Kishan Lal and Mohd Fafi, have prayed that the respondents may be directed to treat the training imparted to the applicants as training to apprentices under Chapter 24 of the Indian Railway Establishment Manual Vol.I, (Annex.A3) and consider the applicants for appointments to the posts for which they have been trained as apprentices, in accordance with the rules and the notification dated 22.12.1994 (Annex.A14). They have further prayed that they may be allowed all consequential benefits by treating their appointment against the next available/future vacancies in their trade.

2. The case of the applicants is that applicant No.1 is an ITI trained person with two years training, applicant No.2 has passed Higher Secondary Examination and applicant No.3 holds M.A degree with Diploma in Labour Laws. They were imparted training in the Diesel Shed/CoW Depot at Gangapurcity in the Western Railway. The terms and conditions of the apprenticeship were governed by the Apprentice Act, 1961. They were given requisite facilities for training including stipends, etc. All of them were imparted training for 3 years for jobs on the Railways. They completed their training successfully in their respective trades. After completion of their training they approached the authorities for absorption in the Railways but all their efforts have been of no avail. The applicants filed O.A No.271/92, Narendra Singh & Ors Vs. Union of India & Ors, before this Bench of the Tribunal which was disposed of by this Tribunal vide order

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dated 28.10.94 (Annex.A13). In the said order, the Tribunal had directed the respondents to consider the applicants' cases for employment to any suitable post with due sympathy if such appointments do not go specifically contrary to any rules. The case of the applicants is that the order of the Tribunal was not implemented by the respondents. The applicants filed Contempt Petition No.116/95 which was disposed of by the Tribunal on 1.2.1996, granting liberty to the applicant to file a fresh application. In the reply to the Contempt Petition, the respondents have taken the plea that they would consider the cases of the applicants for appointment as and when vacancies arise. Now, respondent No.4, the General Manager(E), Western Railway, Bombay, has issued a notification dated 22.12.95 for fillingup 25% vacancies in Group-C posts meant for direct recruits. The cases of the applicants are not being considered despite the fact that clear vacancies are available. The applicants have urged that since they have been imparted training by the Railways for the trades which are relevant for jobs on the Railways and they successfully completed the training programme, they should be granted employment on the Railways against the direct recruitment vacancies in the respective trades in which they have been trained.

3. The respondents in the reply have stated, inter alia, that as and when vacancies are advertised, the applicants can also apply and it is only then that the Railway administration can consider their candidature. However, they have denied that any guarantee of appointment can be given merely on a completion of their training as aforesaid.

4. During the arguments the learned counsel for the applicants while reiterating the averments made in the O.A drew our attention to the judgment of the Hon'ble Supreme Court reported in (1995) 29 ATC 171, U.P.State Road Transport Corporation & Anr. Vs. U.P.Farivahan Nigam Shishulkha Berozgar Sangh & Ors. In this judgment the Hon'ble Supreme Court had before it the cases of persons who had been trained under the Apprentice Act, 1961 as to whether they were entitled to appointments or consideration for appointments on account of their completion of training under the said Act and if so to what extent. In paragraphs 11 and 12 of the aforesaid judgment, the Hon'ble Supreme Court held as follows:

"11. The aforesaid being the position, 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.

"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

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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. Relying upon these observations of the Hon'ble Supreme Court, the learned counsel for the applicant urged that the applicants should be considered for appointment in categories of Skilled Artisans against the direct recruitment quota alongwith other open market candidates.

6. The learned counsel for the respondents stated that the applicants had earlier applied for appointment against quota meant for departmental candidates and therefore, their cases could not have been considered for appointment against vacancies meant for departmental candidates.

7. We have heard the learned counsel for the parties and have perused the material on record including the judgment cited by the learned counsel for the applicants.

8. It is undisputed that the applicants have been trained under the Apprentice Act in the Diesel Shed/C&W Workshop of the Western Railway at Gangapurcity and they have successfully cleared the training programme. Rule 159(1)(i) of the Indian Railway Establishment Manual, provides that such persons who have been imparted training and have completed it successfully can be considered for recruitment against 25% quota meant for direct recruitment from the open market. The judgment of the Hon'ble Supreme Court in the case cited above also emphasises the same aspect and goes on to say that such a trainee would not be required to get his name sponsored by any Employment Exchange. In view of the facts of the case and in the light of the observations of the Hon'ble Supreme Court in para 12 of the judgment referred to above, we direct the respondents to consider the cases of the applicants for appointment in the Skilled Artisan Categories against the 25% direct recruitment quota to be filled up from open market as and when vacancies are advertised and the applicants submit their

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applications against such vacancies. While considering the cases of the applicants, the respondents shall specifically keep in view the observation of the Hon'ble Supreme Court in para 12 of the judgment (supra).

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

(O.P.Sharma)

Administrative Member.

Gopal Krishna

Vice Chairman.