

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH,

JAIPUR

Date of order: 11.10.2001

OA No. 583/1996

1. Hari Prakash s/o Shri Hari Kishan r/o Poonam Colony, T.A.Centre, 1103, near Kota Junction, Kota at present working as Assistant Driver.
2. Narain Singh s/o Shri Onkar Singh r/o Moder House, Kheldi Phatak, House No. 24, Kota Junction at present working as Driver.
3. Vijay Bahadur s/o Shri Ramdhan Singh r/o Railway Workshop Colony, Kota Junction, at present working as Driver.
4. Ashraf Ali s/o Shri Bhanwar Lal r/o Rangtalab, Nai Basti, Kota Junction, at present working as Driver.
5. Daulat Singh s/o Shri Devi Singh r/o Bapu Colony, Kota Junction at present working as Assistant Driver.
6. Mohan Lal S. s/o Shri Sewa Ram r/o Mahatma Gandhi Colony, Kota Junction at present working as Driver.
7. Mohammad Siququi s/o Shri Jumma Khan r/o Rangpur Road, Pratap Nagar, Kota Junction.
8. Ravindra Kumar Kapoor s/o Shri Raghuveer Kapoor r/o Loco Colony, Ram Mandir Ke Pass, Kota Junction at present working as Assistant Driver.
9. Abdu. Wahid w/o Shri Abdul Shakoor r/o Loco Colony, Kota Junction, at present working as Assistant Driver.
10. Sopal Singh s/o Shri Laxman Singh r/o of New

*Sopal Singh*

Colony, Purchit Ji Ki Tazari ke Pass, Kota Junction, at present working as Assistant Driver.

11. Gulzar Beg s/o Shri Akhtar Beg r/o Railway Loco Colony, Kota Junction, Kota, at present working as Assistant Driver.
12. Basir Mohd s/o Shri Nallha Khan r/o Kota, at present working as Driver.
13. Ramesh Chand P. s/o Shri Pooni Ram r/o of Kota at present working as Driver.

...Applicants

Versus

1. Union of India through the General Manager, Western Railway Churchgate, Mumbai.
2. The Divisional Railway Manager, Western Railway, Kota.
3. The Senior Divisional Electrical Engineer (Traction Running Organisation), Western Railway, Kota Junction, Kota.

.. Respondents

Mr. Anurag Kulshrestha, proxy counsel to Mr. Virendra Lodha, counsel for the applicants

Mr. U.D.Sherma, counsel for the respondents

CORAM:

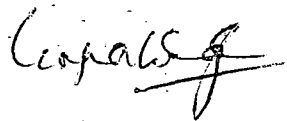
Hon'ble Mr. Justice B.S.Raikote, Vice Chairman

Hon'ble Mr. Gopal Singh, Administrative Member

ORDER

Per Hon'ble Mr. Gopal Singh, Administrative Member

In this application under Section 19 of the Administrative Tribunels Act, 1985, applicants (13 in



number) have prayed for quashing the impugned order dated 31.7.1996 (Ann.A1), panel dated 30.7.1996 (Ann.A2) and for a direction to the respondents to continue the applicants on the post of Driver/Assistant Driver as if the impugned panel has never been passed and regularise the services of the applicants from the date of their initial appointment to the post of Driver with all consequential benefits. It has also been prayed that the respondents be directed to determine the vacancies yearwise and not to club the vacancies as has been done in the present selection.

2. Applicants' case is that all the applicants have undergone successfully the training prescribed for the purpose of selection to the post of Assistant Driver/Driver. Some of them have taken additional training at Zonal Training School, Udaipur. The applicants No. 2 to 7 are working as Driver and applicant No. 1,8,9,10 and 11 are working on the post of Assistant Driver for the last 3-4 years. The respondent Department issued a notification for filling up 270 vacancies in the cadre of Goods Driver pay scale Rs. 1350-2200. All the applicants appeared in the written test in pursuance of notification dated 31.10.1995, but none of the applicant qualified in the written test so as to be called for interview. Contention of the applicants is that the selection has been taken without determining the vacancies yearwise and had the vacancies determined yearwise and selection done accordingly, many of the juniors would not have come up in the eligibility list. It is also pointed out that many of the selected candidates do not have even 2 years of service in the feeder cadre. It is also pointed out by the

*C. P. S. S. S.*

applicants that as per the Railway Board's direction SC/ST candidates are required to be sent for pre-requisite training for the purpose of selection/appointment to the post of Goods Driver, but in the instant case none was sent for training and this clearly vitiates the entire selection. Since the applicants had been working on the higher post for last 3-4 years continuously without any break, they could have been regularised on the said post. Feeling aggrieved, the applicants have filed this OA.

3. In the counter, it has been stated by the respondents that in terms of notification dated 31.10.1995 a panel of 50 persons have been prepared for promotion as Goods Driver and they have been posted at various stations as indicated in Ann.A1. It has been pointed out by the respondents that the applicants have been working as Assistant Drivers etc. on ad-hoc basis, the same has no relevance so far as the post of Goods Driver is concerned, because the post of Goods Driver is a selection post and belongs to safety category. The applicants are required to pass the selection test before being considered for promotion to the post of Goods Driver. It is also pointed out by the respondents that the applicants are aggrieved by the impugned order dated 30.7.1996 and 31.7.1996, however, they have filed this OA in December, 1999 i.e. after more than 3 years, and as such the application is barred by limitation. It has been submitted by the respondents that this application is devoid of any merit and deserves dismissal.

4. We have heard the learned counsel for the

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parties and perused records of the case carefully.

5. Undisputedly, the post of Goods Driver is a selection post and belongs to safety category and in our view, no relaxation can be given to the candidates for appointment to the post of Goods Driver. The applicants alleged that they have been working on the post of Goods Driver for the last 3-4 years. No doubt, they have been working as Assistant Driver/Driver, but on ad-hoc basis and for regularisation they have to pass the selection test consisting of written test and viva-voce. In the instant case, all the applicants had appeared in the written test and failed. We are firmly of the view that they cannot claim regularisation on the post of Goods Driver mainly on the ground that they have undergone necessary training and have been working on the post of Driver/Assistant Driver for sufficiently long time. Once they have appeared in the selection test, they cannot challenge it. They had not protested against the selection prior to participating in it and after having failed they are questioning the selection. In (1990) 12 ATC 625, Dhirendra Kumar v. Union of India and ors., the Principal Bench of the Central Administrative Tribunal had held that a candidate cannot question the selection process after appearing in it, but having been declared unfit.

6. In the light of above discussions, we do not find any merit in this application and the same deserves to be dismissed. Accordingly, we pass the order as under:-

The OA is dismissed, but in the circumstances, without any costs.

  
(GOPAL SINGH)

Adm. Member

  
(B.S. RAIKOTE)

Vice Chairman