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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR

Date of order: 19.5.2000

RA No.12/2000 (OA No.312/1999)

Brij Mohan S/o Shri Jangalia, aged 40 year, Ratan Lal S/o Shri Prabhu Lal, aged 45 years, Radheshyam s/o Shri Kanwal Lal, aged 45 years, Hemraj Gurjar s/o Shri Deva, aged 41 years, Raghunath aged about 41 years and Narendar Dutt Sharma S/o Shri Yadram, aged 47 years, all are employed on the post of Switchman in Western Railway, Kota Division, Kota.

.. Review applicants

Versus

1. The Union of India through General Manager, Western Railway, Churchgate, Bombay.
2. Senior Divisional Personnel Officer, Western Railway, Kota Division, Kota.
3. Senior Divisional Operating Manager (Estt.) Kota Division, Kota.

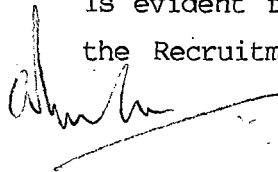
.. Respondents

ORDER

Per Hon'ble Mr. N.P.Nawani, Administrative Member

The applicants' contention in para 2(3)(a) of this Review Application is that it was specifically stated by them that para 124 of IREM has been amended on 5.6.1998, whereas the vacancies were of 1997-98 i.e. prior to the amendment and thus applying the amended rule on vacancies which 'a rare' (sic perhaps 'arose') prior (sic prior) to amend (sic amendment) is illegal against the settled position of law. We have again gone through the OA No.312/1999 in which the order dated 10.4.2000 has been passed against which the present Review Application has been filed. It is surprising to note that no plea mentioning para 124 has been taken at all in the OA. The applicants cannot now raise any plea with respect to para 124 of the IREM. The Apex Court in the case of Meghraj Urkudaji v. State of Maharastra, reported in 1999 (2) SLJ (SC) 130, has held that in the absence of pleadings, no plea can be considered. In view of this no review can be taken on the ground raised by the applicants that para 124 of IREM has been amended by the Railways on 5.6.1998 and consequently vacancies arising in 1997 i.e. prior to the date of the alleged amendment could not be filled on the basis of amended para 124 of IREM.

2. Even otherwise, we are of the considered view that Indian Railway Establishment Manual (IREM) is a compilation of statutory rules, which is evident from the very title of Chapter I, Section-B, viz. "Rules for the Recruitment and Training of Group 'C' and Group 'D' and Workshop



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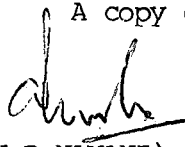
staff", which contains para 124 also. Vol. I of IREM containing para 124 has been published in 1989 and the applicants had not contended that it has been amended and it, therefore, is considered to be holding sway even now. Sub-section I (iii) of the said chapter relates to Guards and (ii)(b) provides that "54% by selection (emphasis supplied) from amongst Ticket Collectors, Commercial Clerks, Switchmen.....". The authority cited is E-(NG) 1/78/PM1 - 100 dated 18.9.1978. Thus the mode of promotion from Switchmen (to which applicants belonged) to Goods Guard has been by selection since 18.9.1978 and we have depended on this rule 124 while deciding OA No.312/1999 and even if the applicants in their pleas in the OA had referred to para 124, we were bound to arrive at the same conclusion. Just because the respondents in reply to applicants' Misc. Application No.230/99 had stated that 'the post Goods Guard is not a non-selection post by the Railway Board letter No. E/N-G-1-96PM-2/3 dated 5.6.1998 does not alter the force of para 124 of the IREM which provides for promotion of Switchmen, among others, to the post of Goods Guard by selection. It obviously is a reiteration of para 124 of IREM. Just because by mistake a panel was prepared for promotion to the post of Goods Guards by taking only a suitability test (as against selection process as per rules) does not mean that the respondents are prevented from correcting a mistake and adopting the selection process.

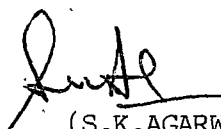
3. In view of absolutely clear rule position and the relevant rule incorporated in para 124 of IREM being in force since 18.9.1978, it was obviously applicable on promotions made for the vacancies of 1997-98 and there was, therefore, no need at all to discuss about the two cases cited by the applicants to support their contentions that the vacancies of 1997-98 could not have been filled up by the amendment carried out on 5.6.1998. As we have discussed in the preceding paragraph, there was no amendment made to para 124 of IREM on 5.6.1998.

4. Apart from the above, no other error apparent on the face of the record has been brought out in the Review Application.

5. The Review Application is, therefore, dismissed by circulation.

A copy of this order may be sent to the respondents also.

  
(N.P.NAWANI)  
Adm. Member

  
(S.K.AGARWAL)  
Judl. Member