

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

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Date of Decision: 17.9.2003

OA 553/2001 with MA 98/2003

1. Naresn Pal Singh s/o Snri Dhyan Pal Singh r/o 533-A, Type-III, New Railway Colony, Kota Jn.
2. Ajmat Hali Khan s/o Shri Ahmed Khan r/o 492-B, New Railway Colony, Kota Jn.
3. Ahmed Hussain Gouri s/o Shri Gulam Rasool r/o Near Police Station, Vigyan Nagar, Kota.

All working as Senior Goods Guards, Western Railway, Kota Division, Kota.

... Applicants

Versus

1. Union of India through General Manager, W/Rly, Churchgate, Mumbai.
2. Shri H.L.Meena, Sr.Divisional Operating Manager (E), W/Rly, Kota Division, Kota.

... Respondents

CORAM:

HON'BLE MR.M.L.CHAUHAN, JUDICIAL MEMBER

HON'BLE MR.A.K.BHANDARI, ADMINISTRATIVE MEMBER

For the Applicants

... Mr.S.K.Jain

For the Respondents

... Mr.T.P.Sharma

ORDER (ORAL)

The applicants, named above, have filed this OA thereby praying for the following reliefs :

- "i) That by an appropriate order or direction, the impugned eligibility list dated 23.10.2001 (Ann.A/1) be quashed and set aside and the respondents be directed to issue the eligibility list on the basis of only 3 posts being reserved for SC candidates and include the names of the general candidates on the basis of 19 posts being for general community.
- ii) That the respondents be further directed not to hold any selection for the above posts of Passenger Guards and to promote the senior most Senior Goods Guards on the basis of their service record."

2. The matter was partly heard on 12.9.2003, on which date this Tribunal passed the following order :

" Heard the learned counsel for the parties. The learned counsel for the respondents states that in view of subsequent developments, the eligibility list as determined vide Ann.A/1 has undergone change and the department will issue fresh eligibility list for the

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posts of Passenger Guard. As such, this OA does not survive now.

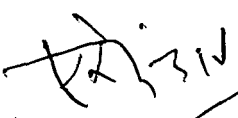
The learned counsel for the applicants submits that he has also raised a point that the post of Passenger Guard is a non-selection post and as such the finding on this point is also necessary."

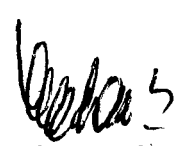
The matter was listed today for hearing on the point whether the post of Passenger Guard is a selection post or a non-selection post.

3. We have heard the learned counsel for the parties. The learned counsel for the applicants submits that this OA has not become infructuous inasmuch as in the prayer clause (i) besides praying for quashing the eligibility list dated 23.10.2001 (Ann.A/1) the applicants have also prayed that the respondents be directed to issue the eligibility list on the basis of only three posts being reserved for SC candidates and include the names of the general candidates on the basis of 19 posts being for general community. We <sup>do</sup> ~~are~~ not agree with the contention raised by the learned counsel for the applicants in view of the submission made by the learned counsel for the respondents that number of posts meant for Passenger Guards has undergone substantial change in view of the fact that some of the persons have already retired. As such, the fresh eligibility list reserving the posts will depend upon the number of posts which are required to be filled now. In view of this fact, no relief can be granted to the applicants. Regarding second point, as to whether the post of Passenger Guard is a selection post or not, the respondents have produced certain documents which have been taken on record. The learned counsel for the applicants submits that in view of the documents so produced, he does not want to press this point. Accordingly, this point stands decided as not pressed.

4. In view of what has been stated above, we are of the view that in view of the submissions made by the learned counsel for the respondents, this OA and the MA have become infructuous and the same are dismissed. Interim order granted earlier also stands vacated.

5. It is, however, clarified that in case the applicants feel aggrieved by the fresh eligibility list to be issued for the posts of Passenger Guard, they will be at liberty to challenge the same including the point regarding reservation. It is further clarified that we have not gone into the merit of this case and the OA has been dismissed only on the basis of statement made by the learned counsel for the respondents.

  
(A.K.BHANDARI)  
MEMBER (A)

  
(M.L.CHAUHAN)  
MEMBER (J)