

THE CENTRAL ADMINISTRATIVE TRIBUNAL  
JAIPUR BENCH, JAIPUR

O.A. No. 152/2002

200

T.A. No.

DATE OF DECISION \_\_\_\_\_

Bhagwat Prasad & Others Petitioner

Mr. Ashok Gaur Advocate for the Petitioner(s)

Versus

Union of India & Others Respondent

Mr. R.G. Gupta Advocate for the Respondents(s)

CORAM:

The Hon'ble Mr. Justice G.L. Gupta, Vice Chairman

The Hon'ble Mr.

(G.L. Gupta)  
Vice Chairman

1. Whether Reporters of local papers may be allowed to see the Judgement?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgement?
4. Whether it needs to be circulated to other Benches of the Tribunal ?

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

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Date of Decision: 18.07.03

OA 152/2002

1. Bhagwat Prasad s/o Shri Ram Swaroop, Coach Attendant, Western Railway, Ajmer.
2. Baldeo s/o Shri Chimandas, Coach Attendant, Western Railway, Ajmer.
3. Mool Chand s/o Shri Michu Mal, Coach Attendant, Western Railway, Ajmer.
4. Ramesh Chand s/o Shri Michu Mal, Coach Attendant, Western Railway, Ajmer.
5. Durga Prasad s/o Shri Shanker Lal, Coach Attendant, Western Railway, Ajmer.

... Applicants

Versus

1. Union of India through General Manager, Western Railway, Churchgate, Mumbai.
2. Divisional Commercial Manager, Western Railway, Ajmer.

... Respondents

CORAM:

HON'BLE MR.JUSTICE G.L.GUPTA, VICE CHAIRMAN

For the Applicants

... Mr.Ashok Gaur

For the Respondents

... Mr.R.G.Gupta

O R D E R

PER MR.JUSTICE G.L.GUPTA

The reliefs claimed in the instant OA are as follows :

- "i) by appropriate order or direction the impugned order dated 14.3.2002 (Ann.A/7) alongwith relieving orders memorandums (Ann.A/8,9,10 & 11) may be quashed and set aside.
- ii) by further appropriate order or direction the respondents be directed to allow the applicants to work as Coach Attendants in Western Railway, Ajmer.
- iii) by further appropriate order or direction the respondents be directed to regularise the services of the applicants on the post of Coach Attendants with all consequential benefits.
- iv) the Hon'ble tribunal in case comes to conclusion that services of the applicants cannot be regularised, in alternative atleast they should be allowed to continue as Coach Attendants till regularly selected persons are made available or till



final exercise is not undertaken to appoint the Coach Attendants."

2. The applicants, who are Bhistis/Link Markers, have been working as Coach Attendants, some for about 15 years and others for about 9 years. They were directed to work on their original posts vide memos dated 18.3.2002 (Ann.A/8 to A/11). The grievance of the applicants is that though they are eligible to be posted as Coach Attendants on regular basis and are entitled to regularisation, yet persons of other branches have been appointed as Coach Attendants on regular basis depriving the applicants of right of promotion.

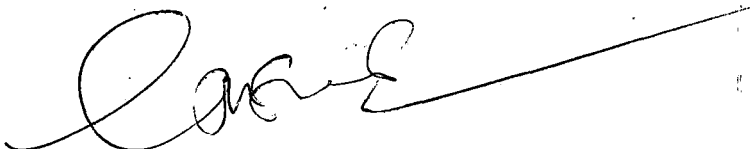
3. In the counter, the respondents' case is that due to the detachment of First Class Coaches in the trains no more Coach Attendants are required and hence the posts of Coach Attendants are likely to be abolished. It is stated that the applicants have worked on the posts of Coach Attendants in their own pay scale of Bhisti/Link Marker.

4. I have heard the learned counsel for the parties and perused the documents placed on record.

5. The contention of Mr.Gaur was that the respondents are taking work from the applicant of the higher post and, therefore, they are entitled to the higher pay scale for the period they have performed the duties of Coach Attendants. His further contention was that the posts of Coach Attendants have not yet been abolished, which fact is evident from the appointments made in the year 1999 and, therefore, the applicants are entitled to be regularised on the post of Coach Attendants.

6. On the other hand, the contention of the learned counsel for the respondents was that the financial benefit of the higher post has not been claimed in this OA and, therefore, the oral request, made by the learned counsel for the applicants for higher pay scale for the period the applicants have worked on the post of Coach Attendants, should not be entertained. His further contention was that the applicants who were asked to discharge the work of the higher post cannot claim regularisation merely on the ground that they have worked for number of years on the higher posts. He convassed that the posts of Coach Attendants are being abolished and, therefore, the process of selection for the posts of Coach Attendants has not been undertaken.

7. I have considered the contentions made by the learned counsel for the parties. In the OA, the applicants have not claimed the benefit of



the higher pay scale for the period they have worked on the posts of Coach Attendants. No relief can be granted to the applicants in this behalf. If they think that they are entitled to the benefit of the higher pay scale for the period they have worked as Coach Attendants, they should make a proper representation to the respondents for the relief.

8. The admitted position of the parties is that the substantive appointment of the applicant Nos.1,2,3 & 5 is on the post of Bhisti and of applicant No.4 on the post of Link Marker. All of them have been discharging the duties as Coach Attendants. When steps were taken to send them back to their substantive posts pursuant to the communication (Ann.A/7) they filed the instant OA and obtained interim order on 16.4.2002.

9. It is settled legal position that working for a number of years on the higher post does not make the incumbent entitled to be regularised on the higher post. Admittedly, the post of Coach Attendant is required to be filled up by promotion on seniority cum fitness basis from amongst the eligible persons. It is not in dispute that the applicants who are Bhistis and Link Markers are eligible for promotion to the post of Coach Attendant. Whenever the selection process for promotion to the post of Coach Attendant is held, the applicants are bound to be considered for the post.

9.1 As a matter of fact, the selection process had started in 1992 vide communication (Ann.A/2) but, it seems, it was not completed. Again, in the year 1995, selection process was started vide Ann.A/3. It seems, again the selection could not be completed.

10. It is seen that three applicants had approached this Tribunal by filing OA 335/94, which was disposed of vide order dated 6.4.95. Pursuant to the directions given in the order, the respondents considered the case of the applicants and informed them vide Ann.A/4 that they could not be given promotion on the posts of Coach Attendants as they had not been selected by that time and that the selection process was under process. Vide communication (Ann.A/5) a list of eligible candidates was also circulated in which the names of the applicants found place.

11. Now the stand of the respondents is that the posts of Coach Attendants are likely to be abolished because the First Class Coaches are not attached in the trains after introduction of AC Coaches. In any case, it is admitted that there is cadre of 13 Coach Attendants in Ajmer Division and only three regular Coach Attendants are working. At the same



time, it is also not denied that the applicants were performing the job of Coach Attendants when the orders (Ann.A/8 to A/11) were issued on 18.3.2002 and after that they are continuing to discharge the functions of Coach Attendants on the basis of interim order passed by this Court.


11.1 It is further seen that in the year 1999 some medically decategorised persons were absorbed in the cadre of Coach Attendants.

11.2 It is thus manifest that the posts of Coach Attendants have not yet been abolished. It was not proper on the part of the respondents not to consider promotion of the eligible persons listed in Ann.A/5 when the posts of Coach Attendants had not been abolished. As a matter of fact, when absorption on the posts of Coach Attendants had taken place in the year 1999, there could not be valid justification for not holding the selection process from 1996 to 1999. Be that as it may, it is neither stated in the reply nor it was submitted during the course of arguments that the posts of Coach Attendants have been abolished.

12. When the posts of Coach Attendants are in existence, there could not be valid justification for not initiating selection process for promotion to the posts. The eligible incumbents should not have been deprived of right of consideration. Even if it is accepted that some posts of Coach Attendants are to be abolished, in that case, the persons working on the posts of Coach Attendants may be absorbed on any other posts as per rules. If promotions are not considered by the authorities on the posts in existence, it is bound to cause regiment in the workmen, which has ultimately adverse effect on the work. It is, therefore, a fit case in which some directions should be given to the respondents.

13. Consequently, though reliefs Nos.(i) to (iv) cannot be straightway granted to the applicants, it is directed that the respondents shall hold the selection process for promotion to the existing vacancies on the posts of Coach Attendants within a period of four months from the date of communication of this order.

14. The OA stands disposed of accordingly, No order as to costs.

  
(G.L.GUPTA)  
VICE CHAIRMAN