

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,  
JAIPUR BENCH, JAIPUR.

Date of decision: 03 <sup>March</sup> ~~February~~, 2004

OA No.112/2003

1. Hazari Singh s/o Shri Nathu Singh, aged about 43 years, resident of c/o Mangi Lal Garhwal, Narsinghpura Jonsh Ganj, Ajmer, presently working as Helper Khallasi in the office of Dy. Chief Electrical Engineer (Workshop), Western Railway, Ajmer.
2. Bheru Lal Mali s/o Shri Panna Lal Mali, aged about 43 years, resident of c/o Mangi Lal Garhwal, Barsinghpura Jonsh Ganj, Ajmer and presently working as Helper Khallasi in the office of Dy. Chief Electrical Engineer (Workshop), Western Railway, Ajmer.
3. Keshav Dev s/o Shri Sher Singh, aged about 43 years, r/o Railway Q.No.2088, Jonsh Ganj, Ajmer at presently working as Helper Khallasi in the office of Dy. Chief Electrical Engineer (Workshop), Western Railway, Ajmer.
4. Shyam Lal s/o Shri Mangi Lal aged about 42 years, r/o Behari Ganj, Singar Chawari, Ajmer and at presently working as Helper Khallasi in the office of Dy. Chief Electrical Engineer (Workshop), Western Railway, Ajmer.
5. Mukesh Chand Jain s/o Shri Prem Kumar Jain, aged about 36 years, r/o 61-A behind Saraswati School, Ajmer and at presently working as Helper Khallasi in the office of Dy. Chief Electrical Engineer (Workshop), Western Railway, Ajmer.
6. Jitendra Kumar s/o Shri Nathu Singh,

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aged about 35 years, r/o Railway Quarter No.1654-E, Railway Kasari Nari Colony, Ramganj, Ajmer and at presently working as Helper Khallasi in the office of Dy. Chief Electrical Engineer (Workshop), Western Railway, Ajmer.

7. Ashok Kumar Sharma s/o Shri Kalu Ram Sharma, aged about 36 years, r/o House No. 130/10, Ganesh Ganj, New Chandra Nagar, Beawar Road, Ajmer and at presently working as Helper Khallasi in the office of Dy. Chief Electrical Engineer (Workshop), Western Railway, Ajmer.
8. Gopal Singh Chauhan s/o Shri Bhanwar Lal Chauhan, aged about 34 years r/o 255/2, Jawahar Nagar, Ajmer and at presently working as Helper Khallasi in the office of Dy. Chief Electrical Engineer (Workshop), Western Railway, Ajmer.
9. Deepak Singh s/o Shri Devendra Pal Singh, aged about 34 years, r/o 331/26, Ramganj, Ajmer and at presently working as Helper Khallasi in the office of Dy. Chief Electrical Engineer (Workshop), Western Railway, Ajmer.
10. Jordan Francis Robert s/o Shri Joel Robert, aged about 35 years r/o 256/1, Robert Compound, Christian Ganj, Ajmer and at presently working as Helper Khallasi in the office of Dy. Chief Electrical Engineer (Workshop), Western Railway, Ajmer.
11. Kamlesh Kumar Gaur s/o Shri Ramesh Chand Gaur, aged about 36 years resident of c/o Shri Suresh Khandelwal Subhash Stove Wali Gali, Nagra, Ajmer and at presently working as Helper Khallasi in the office of Dy. Chief Electrical Engineer (Workshop), Western Railway, Ajmer.
12. Prabhu Singh Rawat s/o Shri Ghasi Singh

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Rawat, aged about 32 years resident of village Chainpura Post Bhawani Kheda, Distt. Ajmer, and at presently working as Helper Khallasi in the office of Dy. Chief Electrical Engineer (Workshop), Western Railway, Ajmer.

13. Manik Kumar s/o Shri Bishan Lal, aged about 32 years, r/o Plot No.2, in front of Nari Shala, Akash Bihar Colony, Ajmer and at presently working as Helper Khallasi in the office of Dy. Chief Electrical Engineer (Workshop), Western Railway, Ajmer.

14. Gopal Lal Mali s/o Shri Bhalu Mali, aged about 38 years r/o Durga Colony, near Railway Line, Gaddi Maliyan, Ajmer and at presently working as Helper Khallasi in the office of Dy. Chief Electrical Engineer (Workshop), Western Railway, Ajmer.

15. Kailash Kant Sharma s/o Shri Ganga Nand Sharma, aged about 33 years r/o 567/28-B, Geeta Nagar, Bhihariganj, Ajmer and at presently working as Khallasi in the office of Dy. Chief Electrical Engineer (Workshop), Western Railway, Ajmer.

16. Trivendra Kumar Sharma s/o Shri Suresh Chand Sharma, aged about 29 years, r/o House No.644/28, Singarchawari, Bihariganj, Ajmer and at presently working as Khallasi in the office of Dy. Chief Electrical Engineer (Workshop), Western Railway, Ajmer.

17. Damodar Morya s/o Shri Bagta Ram Moray, aged about 45 years resident of House No.808/11 in front of HMT Sunder Nagar, Ajmer and at presently working as Khallasi in the office of Dy. Chief Electrical Engineer (Workshop), Western Railway, Ajmer.

.. Applicants

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1. Union of India through General Manager, North-Western Zone, North-Western Railway, Jaipur.
2. Divisional Railway Manager, North-Western Railway, Ajmer Division, Ajmer.
3. Chief Works Manager, Loco Workshop, North-Western Railway, Ajmer.
4. Dy. Chief Electrical Engineer (Workshop), North-Western Railway, Railway Power House, Nagra, Ajmer.

.. Respondents

Mr. C.B.Sharma - counsel for the applicants.

Mr. N.C.Goyal, counsel for the respondent Nos. 1,3 and 4.

Mr. Tej Prakash Sharma, counsel for respondent No.2.

CORAM:

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

HON'BLE MR. A.V.BHANDARI, MEMBER (ADMINISTRATIVE)

O R D E R

PER HON'BLE MR. M.L.CHAUHAN.

The applicants have filed this OA thereby praying for the following reliefs:-

- "(i) That the entire record relating to the case be called and after perusing the same the respondents be directed to induct the applicants in prescribed training course after completion of

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selection process for the post of skilled artisans in the scale of Rs. 3050-4590 with all consequential benefits by quashing letters dated 18.2.2003 and 3.2.2003 (Annexure-A/1 and Annexure-A/2) with the letter dated 24.11.2001 (Annexure-A/11).

(ii) That the respondents be further directed to appoint the applicants on the post of skilled artisans in the scale of Rs. 3050-4590 after completing prescribed training course and not to fill up these posts without prescribing any age limit and to further proceed in selection process started in 2001.

(iii) Any other order, direction or relief may be passed in favour of the applicants which may be deemed fit, just and proper under the facts and circumstances of the case.

2. The case of the applicants, as made by them, is that the applicants are substantive employees of the respondent Railways and working on the posts of Helper Khallasi/Khallasi in the Electrical Department Workshop at Ajmer in different branches i.e. Refrigeration, Train Lighting etc. under respondent No.1. As per rules, 25% of posts of skilled artisan in the scale of Rs. 3050-4590 were required to be filled by promotion from the eligible staff of semi-skilled and unskilled category by way of written

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test and thereafter by holding interview. The respondents vide letter dated 30.5.2001 (Ann.A5) declared 16 vacancies for the said promotion and called for applications from the willing employees. It may also be added here that thereafter the respondents issued an amended notification dated 7.7.2001 (Ann.A8) thereby prescribing age limit by amending notification dated 30.5.2001 (Ann.A5). In this notification the age prescribed for general category was 40 years, in respect of OBC 43 years whereas in respect of SC and ST candidates 45 years as on 30.5.2001. Thereafter the eligibility list was issued by respondent No.4 vide letter dated 8.8.2001 (Ann.A6) and 17.8.2001 (Ann.A7). The applicants appeared in the written test held on 19.9.2001 and were declared successful vide letter dated 12.10.2001 (Ann.A9). Thereafter the respondents ordered oral examination on 1.11.2001 which was postponed to 27.11.2001 vide letter dated 17.11.2001 and thereafter also cancelled vide order dated 24.11.2001 till further order without any reason inspite of the fact that the applicants <sup>& were</sup> eligible for promotion and they have already passed the written examination. It is further stated in the OA that there is no need for any oral examination and the applicants can be inducted in prescribed training course without any delay, but the respondents without disclosing any reason delayed the process of promotion which is not justified.

2.1 The applicants also submitted

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representation dated 25.1.2002 and 4.7.2002 but without any relief. Thus, they have filed an OA before this Tribunal which was registered as OA No.351/2002. Since the representation of the applicants were pending, this Tribunal vide order dated 23rd August, 2002 disposed of the OA with direction to the applicants to file fresh representations to respondent No.4 alongwith copy of the order and in that eventuality, respondent No.4 was directed to dispose of representation by a speaking order within four weeks from the date of receipt of representations. Pursuant to the said direction given by this Tribunal, the respondents have now decided the representations of the applicants vide impugned order dated 18.2.2003 (Ann.A1) whereby stating that the entire selection process has been cancelled vide letter dated 3.2.2003 (Ann.A2). Reason for cancelling the said examination as can be found from Ann.A1 is that as per clarification given by the Railway Board vide their letter dated 6.9.2002 no age limit has been prescribed for filling up the vacancy for skilled artisan Grade-III from serving semi-skilled and unskilled staff. Copy of the said clarification has also been placed on record by the respondents as Ann.R5 with the reply. As such, in order to give equal opportunity to eligible employees entire selection process with result was cancelled and the same was communicated to the applicant vide letter dated 3.2.2003 (Ann.A2). All the applicants were also informed by speaking order

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dated 18.2.2003 (Ann.A1). It is these orders which are under challenge in this OA and the applicants have filed this OA thereby praying for the aforesaid reliefs.

3. Notice of this application was given to the respondents. The respondents have filed reply. The facts, as stated above, have not been disputed by the respondents. It has been further stated in the reply that the entire selection process with result was cancelled vide letter dated 3.2.2003 (Ann.A2). The applicants were informed accordingly vide letter dated 18.2.2003 (Ann.A1). The reason as to how the matter was initially processed and why it was subsequently cancelled has been given in para 4(10) and (11) of the reply. It has been mentioned in these paras that pursuant to the notification dated 30.5.2001 read with amended notification dated 7.7.2001 employees were asked to submit application upto 15.6.2001 and copy of these letters were also sent to the General Manager, Churchgate, Mumbai and vide letter dated 13.7.2001, the General Manager was also requested for any addition or deletion of the condition as was imposed vide notification dated 30.5.2001 and 7.7.2001. Copy of letter dated 13.7.2001 has been placed on record as Ann.E1. The General Manager vide letter dated 26.7.2001 informed that the condition of age as imposed vide amended notification dated 7.7.2001 is correct. In the meantime, a letter dated 20.11.2001 was received

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from the General Manager, Headquarters Office, Churchgate Mumbai, in that it was mentioned that instructions as contained in Railway Board's letter dated 2.2.98 circulated by P.S. No.33/98 under office letter No. EP 1130/0 Vil,II dated 11.2.98 and as per procedure under para 159 of IREM Vol.I 1989 Edition should be followed while filling up 25% vacancies from serving Khallasi and Khallasi Helper. Copy of this letter has been placed on record as Ann.R3. Since the copy of above letter was not received and nothing was mentioned about age, so the case was again sent to the General Manager, Mumbai for directions/instruction vide letter dated 28.11.2002 (Ann.R4). The General Manager, Headquarters Mumbai sent the case to the Railway Board vide letter dated 14.1.2002 and the Railway Board vide letter dated 6.9.2002 informed that no age limit has been prescribed for filling up of vacancies in Skilled Artisan Grade-III from serving semi-skilled and unskilled staff. So letter dated 3.2.2003 (Ann.A2) was issued thereby cancelling the entire process with result so that equal opportunity could be given to the eligible employees.

4. We have heard the learned counsel for the parties and gone through the material placed on record.

4.1 The main question which requires our consideration is whether the reasons given by the respondents for cancelling the selection and not

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conducting the interview ~~are~~ <sup>are</sup> legally sustainable. In order to appreciate the point in controversy, it will be useful to reproduce provisions under para 159 of IREM Vol.I 1989 which prescribes the procedure for filling up the post of Skilled Artisan and reads as under:-

(i) 25% by selection from course completed Act Apprentices, III passed candidates and Matriculates from the open market serving employees who are course completed Act Apprentices or III qualified could be considered against this quota allowing age relaxation as applicable to serving employees.

(ii) 25% from serving Khalasis and Khalasi Helpder (formerly known as unskilled and semi-skilled respectively) with educational qualification as laid down in Apprentices Act.

(iii) 50% by promotion of staff in the lower grade as per the prescribed procedure."

4.2 From reading of the aforesaid provisions, it is clear that para 159 (i) deals with selection to be made from open market whereas para 159 (ii) and (iii) deals with promotion of in service candidates. It is further clear from reading of para 159 (i) that provision regarding age relaxation has been made because when the selection has to be made from open

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market, the prescription of minimum and maximum age is necessary condition for making such selection. This fact is also apparent from the fact that provision regarding relaxation of age has also been incorporated in this sub-para. Thus, there is no doubt that where the appointment has to be made from the open market, the condition of age will be applicable but the instant case relates to appointment to be made as per para 159 (ii). From the portion as extracted above, it is clear that there is no prescription of age limit and only condition stipulated in this sub-para is that the selection has to be made from serving Khalasi/Khalasi Helper possessing requisite qualification as laid down in Apprentice Act. Thus, the action of the respondents in issuing an amended notification dated 7.7.2001 thereby prescribing age limit to the post of Skilled Artisan in the scale of Rs. 3050-4590 required to be filled by promotion from semi-skilled and unskilled category is <sup>what</sup> in conformity with the rules.

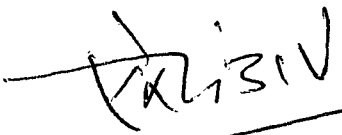
4.3 That apart, the clarification issued by the Railway Board vide letter dated 6.9.2002 (Ann.R5) is also in conformity with the aforesaid provisions. The circumstances under which the matter was initially processed by the respondents has been indicated in the reply affidavit and action of the respondents thereby cancelling the entire selection with result vide letter dated 3.2.2003 cannot be said to be malafide or arbitrary. Further, the reason given by the

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respondents for cancelling the entire selection process, as can be gathered from the impugned order Ann.A1, is that the eligible employees who could not appear in view of age limit stipulated vide amended notification dated 7.7.2001 (Ann.A3) have been denied equal opportunity, cannot be said to be arbitrary decision. The decision not to proceed with the selection has been taken bonafidely and for proper reasons. As such, we are of the view that action of the respondents in cancelling the entire selection process vide letter dated 3.2.2003 (Ann.A2) cannot be faulted. That apart, merely because the applicants have qualified the written test will not ipso-facto entitle them for appointment to the post of skilled artisan and the applicants have no indefeasible right to compel the respondents to hold the interview simply because they have qualified the written test. The respondents have given valid reason for cancelling the entire selection process, thus no relief can be granted to the applicants.

5. In view of what has been stated above, there is no force in this OA, which is accordingly dismissed with no order as to costs.

  
(A.F. PHAUDARI)

Member (A)

  
(M.L. CHAUDHAN)

Member (J)