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**Central Administrative Tribunal
Jabalpur Bench**

OA No.438/05

Jabalpur, this the 1st day of December 2006.

CORAM

Hon'ble Dr.G.C.Srivastava, Vice Chairman
Hon'ble Mr.A.K.Gaur, Judicial Member

1. Anand Prakash Gupta
S/o late Shri R.D.Gupta
Health Inspector, W.C.R.(N.K.J)
Katni.
2. Rakesh Kumar Jain
S/o Shri Raj Kumar Jain
Health Inspector, W.C.R
Damoh
3. Ravikant Kaushal
S/o R.P.Kaushal
Health Inspector, W.C.R.
Katni (M.P.)

Applicants.

(By advocate Shri S.K.Nandi)

Versus

1. Union of India
Through General Manager
West Central Railway
Jabalpur.
2. The Chief Personnel Officer
West Central Railway
Civil Centre, J.D.A. Complex
Jabalpur.
3. The Chief Medical Director
West Central Railway
Indira Market
Jabalpur.
4. The Senior Divisional Personnel officer
West Central Railway
O/o Divisional Railway Manager
Jabalpur.
5. Shri J.P.Sharma

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6. Shri B.L.Meena
 7. Shri Manoj Gupta
 8. Shri Anil Kumar
 (Health Inspectors,
 C/o Chief Medical Superintendent,
 West Central Railway, Kota, Rajasthan.)

9. Shri A.K.Tiwari
 Health Inspector
 C/o Chief Medical Director
 West Central Railway
 Jabalpur.

Respondents.

(By advocate Shri S.S.Gupta)

ORDER

By A.K.Gaur, Judicial Member

This Original Application has been filed by the applicants against the inaction of the respondents in deciding their objections to the seniority list before conducting the examination for promotion to the post of Assistant Health Officer (Group-B). The applicants have prayed that the examinations so conducted be quashed, the objections/representations (A-5 & A-6) be directed to be decided and a fresh examination be directed to be conducted.

2. The applicants, three in number, were appointed as Health Inspectors under the respondents on different dates, after having been selected by the Railway Recruitment Board. According to them, there was no dispute about their seniority. For selection to the post of Assistant Health Officer, an examination was to be conducted after calling for objections to the seniority list. Accordingly, objections were called for from the applicants. However, without deciding the representations/objections submitted by the applicants, the respondents conducted the examination and a disputed seniority list was published in which the applicants were placed below the private respondents who, they claim, are juniors to them. The action of the respondents, according to the applicants, is against the principles of natural justice.

3. The respondents have not disputed the fact that a notification (A-1) was issued for conducting an examination for promotion to the

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post of Assistant Health Officer. They have, however, contended that willingness of 29 eligible employees was called for. The applicants also submitted their willingness to appear in the examination. The vacancies were three and 10 willing employees in order of integrated seniority position in grade Rs.6500-10500/- were called for appearing in the written test. Out of this 10 candidates, one employee was in grade Rs.5500-9000/-, but he was senior to the applicants. These are the private respondents 1 to 9. The applicants did not come in the zone of consideration as they were in the grade of Rs.5500-9000/-. According to the respondents, all the applicants were junior to the above 10 employees, as is evident from A-3 & A-8. Integrated seniority for the purpose of selection should be determined on the basis of total length of non-fortuitous service rendered in the grade Rs.6500-10500/- and above. To support this contention, the respondents have annexed extract of para 203-5 of IREM (R-1).

4. We have heard the learned counsel appearing on either side at length and perused the records.

5. Para 203.5 of IREM stipulates that "integrated seniority for the purpose of selection should be determined on the basis of total length of non-fortuitous service rendered in the grade Rs.2000-3200(RS) and above. In other words, the date of appointment to the grade 2000-3200(RS)/6500-10500 on a non fortuitous basis will be criterion". On a perusal of this para, the conclusion we arrive at is that the substantive grade in which the applicants were working was Rs.5500-9000/- and this grade did not come within the stipulation for their being called for appearing in the examination. The private respondents 1 to 9 were called for appearing in the examination because they were in the stipulated grade of Rs.6500-10500/-. One M.K.Gupta who was at Sl.No.10, was also afforded the opportunity of appearing in the examination, as he was, according to the respondents, senior to the applicants, though in the same grade as the applicants. The ground taken by the applicants is based on a fragile foundation in as much as that all the applicants were in grade Rs.5500-9000/- and all the candidates who were called for appearing in the examination, except

the candidate at Sl.No.10, were in grade Rs.6500-10500/- The allegation of the applicants that the seniority list has been finalized without considering their representation is devoid of merits and force.

6. In view of the aforesaid discussion, we are of the firm view that the applicants have not been able to make out any case warranting our interference. Accordingly the OA is dismissed. No costs.

A.K.Gaur
(A.K.Gaur)
Judicial Member

G.C.S.
(Dr.G.C.Srivastava)
Vice Chairman

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पृष्ठांकन सं. ओ/न्या..... जवलपुर, दि.....
परिचिति अधो दिनः—

- (1) राधिल, उत्तर नवायात्रा ताल एवं निवासन, जबलपुर
- (2) आनंदगढ़ एवं निवासन, वे काउंसल
- (3) प्रद्युम्नी श्री/मि. नवाया/वा, वे काउंसल
- (4) अंगपाल, दा. अ. जबलपुर एवं निवासन, जबलपुर

S.K. Nandi *Ar. 230*
J.J. Gupta *Ar. 230*

उप रजिस्ट्रर

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on 6/12/06
by