Central Administrative Tribunal
Jabalpur Bench

OA No.1159/04 &
OA No.1110/04

Jabalpur, this the 22nd day of June, 2005.

C O R A M

Hon'ble Mr.M.P.Singh, Vice Chairman
Hon'ble Mr.Madan Mohan, Judicial Member

Pramod Kumar Gupta
S/o Shri Jagdish Prasad Gupta
Working as SSE (P.Way) Shridham
R/o Railway Colony,
Shridham (MP) Applicant

(By advocate Shri K.N.Pethia)

Versus

1. Union of India through
Department of Railway
Through its Secretary
Rail Bhawan
New Delhi.

2. Chairman
Railway Board
Rail Bhawan
New Delhi.

3. West Central Railway
Through its General Manager
Jabalpur (MP) Respondents

(By advocate Shri M.N.Banerjee)

OA No.1110/04

1. Feroz Ahmed
S/o Late Abdul Quayyum
Section Engg.(Works)
C/o Dy.Chief Engineer (Construction)
Jabalpur.

2. Sanjay Kumar Dubey

S/o Satyanarayan
Chief Vigilance Inspector
C/o Sr.Dy.General Manager
Chief vigilance Officer
Jabalpur.

3. Ashok Kumar Malviya
S/o H.R.Malviya
Section Engineer, Works
Under Asstt. Divisional Engineer
Itarsi.
Distt. Hoshangabad.

4. Ashokl Kumar Sharma
S/o S.P.Sharma
Section Engineer (Works)
C/o Asstt. Divisional Engineer
Bhopal. Applicants.

(By advocate Shri Arvind Shrivastava)

Versus

1. Union of India
Department of Railway
Through its Secretary
Rail Bhawan
New Delhi.

2. Chairman
Railway Board
Rail Bhawan
New Delhi.

3. West Central Railway
Through its General Manager
Jabalpur.(MP) Respondents.

(By advocate Shri M.N.Banerjee)

ORDER

By Madan Mohan, Judicial Member

Since the issue involved in both OAs is same and the facts are identical, both OAs are disposed of by this common order.

2. The facts of the case in brief are that the applicants are Group 'C' employees of the respondent department in the pay scale of Rs.6500-10500 and are entitled for promotion to Group 'B' posts i.e. Assistant Engineer carrying pay scale of Rs.7500-12000/-. In para 203.4 of the Railway Employment Manual it has been provided as to the number of employees to be called for selection in accordance with sliding scale in order of seniority (Annexure A1). The respondents have prepared an integrated seniority list (Annexure A2) for the said purpose. In other zones, the provisions as mentioned above are strictly followed. However, respondent No.3 has issued a list dated 30.11.04 in violation of the above provisions (Annexure A4). There is also a letter of clarification (Annexure A5). The applicants preferred representations to the respondents in this regard, which remain unresponded to. Hence these OAs are filed.

3. In reply, it is submitted on behalf of respondents that in order to form a panel of 36 employees against 70% LGS quota for selection to the post of Asstt. Engineer Group-B. a notification dated 12.10.04 was issued by the Chief Personnel Officer, Jabalpur. The break up of the posts were 18 UR, 11 SC and 7 ST. In terms of para 204.4 of IREM Vol-I, candidates equal to 3 times are to be called. The Ministry of Personnel, Public Grievances and Pensions vide their OM dated 11.7.02 have issued certain instructions in respect of reservation in promotion and treatment of SC/ST candidates. Accordingly, a list of 108 willing candidates was prepared against the notified vacancy of 36. As the vacancy marked for general candidates were 18, the first 54 i.e. three times the general vacancy were called as general candidates irrespective of whether they are SC/ST or General in terms of the para 2 of the RB's letter containing the DoPT instructions. A total of 70 and not 68 candidates had been called from the integrated seniority list for the selection. The list contains 54 plus 2 (against twice failed) General, 11 SC and 3 ST candidates. Para 203.4 of the IREM Vol-I contains the basic rules for holding a selection for promotion from

Gr.C to Gr.B. Learned counsel further argued that in compliance with the interim order of the Tribunal, the applicants had been permitted to appear in the examination and their result had not been declared and had been kept in sealed cover and would be declared as and when ordered by the Tribunal.

4. After hearing the learned counsel for the parties, and perusing the records, we find that by order dated 23.12.04 in OA 1159/04 and by order dated 9.12.04 in OA 1110/04, the respondents were directed to permit the applicants to appear in the written examination but the result be not declared till further orders of the Tribunal. However, it was clearly mentioned in the order that the written examination could not be stayed. The applicants have admitted that they have been permitted to appear in the written examination. According to para 203.4 of the Railway Employment Manual, three times the candidates should have been called if there were more than 40 candidates. As there were 36 vacancies, the respondents should have called 108 candidates while they have called only 68 candidates. The respondents have stated in the reply that as the vacancy marked for general candidates was 18, hence three times the vacancy i.e. 54 were called. Apart from that, 2 more candidates were also called, who previously failed to qualify plus 11 SC and 3 ST candidates, making it a total 70 candidates. The Ministry of Personnel, Public Grievances and Pensions vide their OM dated 11.7.02 have issued the following instructions on reservation in promotion and treatment of SC/ST candidates:

> "If an unreserved vacancy arises in a cadre and there is any SC/ST candidate within the normal zone of consideration in the feeder grade, such SC/ST candidate cannot be denied promotion on the plea that the post is not reserved. Such a candidate will be considered for promotion along with other candidates treating him as if he belongs to general category. In case he is selected, he will be appointed to the post and will be adjusted against the unreserved point."

The respondents have also stated that the applicants were permitted to appear in the written examination and the results are not declared and they are awaiting the orders of the Tribunal in this regard. Hence the applicants are not prejudiced in any way because they have been permitted to appear in the said examination.

5. Considering all facts and circumstances of the case, we are of the considered opinion that the OAs have no merit. Accordingly, both OAs are dismissed. No costs

6. However, the respondents are directed to declare the results of the applicants.

(Madan Mohan)
Judicial Member

(M.P.Singh)
Vice Chairman

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पृष्ठांकन सं ओ/न्या.....जबलपुर, दि.....
प्रतिलिपि अग्रेषित :–
(1) सचिव, उच्च न्यायालय बार एसोसिएशन, जबलपुर
(2) आवेदक श्री/श्रीमती/कु. .....के काउंसल
(3) प्रत्यर्थी श्री/श्रीमती/कु. .....के काउंसल
(4) ग्रंथपाल, के.प्र.अ., जबलपुर न्यायपीठ
सूचना एवं आवश्यक कार्यवाही हेतु
उप रजिस्ट्रार

K.N. Pathak Adv
Arvind Shivgotra Adv
M.N. Banerjee Adv