

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 659 of 2003

(Bilaspur) this the 22nd day of November, 2004

Hon'ble Mr. M.P. Singh, Vice Chairman
Hon'ble Mr. A.K. Bhatnagar, Judicial Member

1. Shri Elwill Giri
Aged 39 years
Technical Mate(Electrical)
(Group 'C') Office of the Chief
Project Manager, Railway Electrification
Ambala
2. Shri Amar Dayal
Aged 44 years
Technical Mate(Electrical)
(Group 'C') Office of the Chief
Project Manager
Railway Electrification
Ambala Cantt
3. Rajinder Prasad Gupta
Aged 38 years
Technical Mate(Electrical)(Group 'C')
Office of the Chief Project Manager
Railway Electrification
Ambala Cantt.

APPLICANT

(By Advocate - Smt. S. Menon)

VERSUS

1. Union of India
Through Secretary
Ministry of Railways, Rail Bhawan
New Delhi.
2. General Manager
Central Organisation of Railway
Electrification Allahabad
3. General Manager
West Central Railway
Jabalpur
4. Chief Personnel Officer
West Central Railway
Jabalpur
5. Division Railway Manager,
West Central Railway,
Habibganj, Bhopal
6. Chief Project Manager
Railway Electrification,
Ambala Cantt.

RESPONDENTS

(By Advocate - Shri H.B. Shrivastava)

O R D E R

By M.P. Singh, Vice Chairman -

By filing this OA, the applicants have sought the following main reliefs :-

“(a) To issue a writ or certiorari to quash the orders contained in Annexure A-5 to A-7 to the present application or issue any other writ or Writs, order or orders, direction or directions which may be expedient and necessary in the nature and circumstances of the case.

(b) to direct the respondents to place the applicants in Category 'C' against the post of Inspector of works Grade II or Chargeman Grade B in the scale of Rs. 1400-2300 as has been done in the case of G.S Kushwaha and 9 Others in the interest of justice from the date they have been regularized with consequential benefits and interest at the rate of 10% per annum.”

2. The brief facts of the case are that the applicants are possessing Diploma in Electrical Engineering like that of other colleagues who filed separate CWP before the Hon'ble Supreme Court and a common Judgment was passed by the Hon'ble Supreme Court on 3.5.1989(Annexure-A-1), on the basis of which South Eastern Railway passed an order in favour of the colleagues of the applicants. When no favourable action was taken by the respondents in Writ Petition No.181/89, the colleagues in that Writ Petition i.e. G.S.Kushwaha and others filed O.A.No.398/95 before this Tribunal which was decided in their favour against which the respondents filed SLP before the Hon'ble Supreme Court vide SLP© No.5080/1997 which was disposed of by the Hon'ble Supreme Court. Some colleagues of Shri G.S.Kushwaha filed O.A.379/97 titled as Pramod Kumar Verma and 9 ors. Vs. Union of India & ors, which was decided vide order dated 10.3.1998 (Annexure-A-2). The respondent-Railways preferred a writ petition aggrieved by the said order of the Tribunal before the Hon'ble High Court of M.P. which was decided vide order dated 30.10.2002(Annexure-A-3). Union of India therefore filed an SLP before the Hon'ble Supreme Court against the aforesaid order of the High Court dated 30.10.2002, which has been rejected vide order dated 29.8.2003 (Annexure-A-4). Since the



respondents failed to accede to their request, they filed an OA before the Chandigarh Bench of the Tribunal, which was disposed of vide order dated 25.2.2002 (Annexure-A-8) by directing the respondents to consider their representation. The respondents vide their memo dated 15.7.03 have rejected the representation of the applicant.

3. The main grievance of the present applicants in this OA is that the respondent no.5, who is the controlling authority of the applicants, has never bothered to consider the case of the applicants for their absorption/regularization by holding a screening committee/viva voce against 75% direct recruitment quota as it has been in its knowledge as per the orders of South Eastern Railway, rather chose to pass the impugned order dated 3.3.1998 regularising the services of the applicants in Group-D in scale of Rs.750-940. The applicants have contended that the orders of regularization of their services contained in Annexures A-5 to A-7 are bad in law and the whole process of regularization is discriminatory and is in violation of Articles 14 & 16 of the Constitution and the same is liable to be quashed. The applicants have also sought directions to the respondents for their regularization on the post of Inspector of Works Grade-III and Chargeman Grade'B' in the scale of pay of Rs.1400-2300.

4. The respondents in their reply have denied that the present applicants were party to W.P.No.1198/98 before the Hon'ble Supreme Court as they have not filed any document in this regard and as such they are not entitled to the benefits/ directions as given by the Hon'ble Supreme Court. According to the respondents, the applicant cannot claim parity with those who were petitioners before the Hon'ble Supreme Court. Even the cases decided by this Tribunal in OA 398/95 (Shri G.S.Kushwaha & ors Vs.Union of India and others) and

identical cases which were allowed by the Tribunal pertain to individual applicant who approached the Tribunal and got the benefit. These cases were decided way back in 1996 and 1998 and the applicants in the present O.A. did not bother to join such applicants who were before the Tribunal. The applicants are, therefore, not entitled to the benefits as claimed in this OA.

5. Heard the learned counsel of both the parties and we have given careful consideration to the rival contentions.

6. We find that the applicants have earlier approached the Chandigarh Bench of the Tribunal wherein they have claimed the same relief i.e. regularization of their services in Group-C, We have perused the order dated 25.2.2002 (Annexure-A-8) passed in O.A.700/HR/98 filed by the present applicants before the Chandigarh Bench of the Tribunal, wherein it has been clearly mentioned by the Tribunal that the "learned counsel of the respondents stated that applicants were parties in Writ Petition Nos.1267/88, 181/89, 903/88, 1119 and 1198/88 before the Hon'ble Supreme Court which was decided on 3.9.1989". Therefore, the contention of the respondents in the present O.A. that the applicants have not given any documentary proof whether they were party in the earlier writ petition no., 1198/88 is not acceptable and is accordingly rejected. The respondents in this case have also not disputed that the applicants are similarly placed as the applicants in the case of G.S.Kushwaha. They have also not disputed the fact that the order passed by the Tribunal in the case of G.S.Kushwaha (supra) has been implemented. As regards the contention of the learned counsel for the respondents, made during the course of arguments that this case is hit by res judicata as the applicants have claimed the same relief before the Chandigarh Bench of the Tribunal is also not correct and rejected, as the said O.A. was not decided on merit but was dismissed as not pressed with a direction to the respondents to consider the representation of the applicants.

7. We find that this O.A. is fully covered by the order of this Tribunal passed in O.A.577/1998 (Devendra Kumar Pandey & 20 ors Vs.Union of India and others) and other 3 connected OAs decided by a common order dated 12.3.2003 wherein also the order dated 3.3.1998 (which has been challenged in the present OA) was challenged. In the said OAs the Tribunal has directed as under:-

“5.1 There is no dispute that the post of IOW Gr.III/Chargeman is a selection post. The same is to be filled up by holding a screening test as has been directed in the case of G.S.Kushwaha in OA 398/1995 vide order dated 29.2.1996. In case there are not enough number of vacancies for the regularization of the present applicants, they need not be reverted to Group-D posts and may be continued in the present status wherever they are working or if there is no work in that project, they may be adjusted in any other project where such work is still in progress. At the cost of repetition, it is clarified that all the applicants are entitled to be given same treatment and benefits as have been given to G.S.Kushwaha and others in OA 398/1995.

6. In the result, these Original Applications are allowed. The respondents are directed to give effect to this order within a period of three months from the date of communication of this order ..”

7. Since the present O.A. is fully covered in all fours by the aforesaid order of the Tribunal dated 12.3.2003 in the case of Devendra Kumar Pandey (supra) & connected cases, we direct that the aforesaid order dated 12.3.2003 shall be mutatis mutandis applicable in the case of the present applicants as well.



8. In the result, the O.A. is partly allowed with the aforesaid direction. The respondents are directed to give effect to this order within a period of three months from the date of communication of this order. No costs.

(A.K.Bhatnagar)
Judicila Member

(M.P.Singh)
Vice Chairman

पूर्णकन सं ओ/न्या..... जबलपुर, दि.....
ये टेलिफोन टार्ने दिन:-

- (1) सहित, डाक विभाग वा पार फोनिंगेन, जबलपुर
- (2) आवेदन नी/नी/नी/नी
- (3) छत्यरी नी/नी/नी/नी
- (4) विधायक, डो़का, जबलपुर व्हायरी

सूचना एवं आवश्यक कार्यकारी हेतु

Smt. S. Menon 0291 0238

H. B. Shrivastava, 0291 0240

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उपरक्षम्य

Received
on 2/12/09
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