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CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 542 of 2001

Jabalpur, this the 7th day of May, 2004

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

1. Chandra Sekhar Mishra, Son of Shri Tota Ram Mishra, aged about 40 years, resident of Nai Abadi, Dhaneriakala, Neemuch (MP).
2. Om Prakash BR, son of Bal Ram, aged about 38 years, resident of Dhaneria Marg, Neemuch (MP). ... Applicant

(By Advocate - Shri M.K. Verma)

V e r s u s

1. Union of India, through Chairman, Railway Board, Rail Bhawan, New Delhi.
2. General Manager, Western Railways, Church Gate, Mumbai.
3. Divisional Railway Manager, Western Railways, Ratlam.
4. Gangal Damor, Diesel Assistant, C/o. CTCC, Western Railway, Ratlam. ... Respondents

(By Advocate - Shri M.N. Banerjee for official respondents and None for the private respondent No. 4)

O R D E R (Oral)

By M.P. Singh, Vice Chairman -

By filing this original Application the applicant has claimed the following main reliefs :

- "(i) to clear the seniority list dtd. 27.7.2000.
- (ii) to direct the respondent to redraw the seniority list dtd. 27.7.2000.
- (iii) to condemn the capricious and malafide act of respondent department by which they have declared the applicants' result very late."

2. The brief facts of the case are that the applicants recruited as were/Diesel Assistants in the year 1998. The contention of the applicants is that in their case the recruitment

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process for selection of Diesel Assistants started from April, 1997, but due to the delay on the part of the respondents the selection was finalised after more than a year i.e. ² on September, 1998. In the meantime respondents have made selection for the post of Diesel Assistants by mode which is not prescribed under the recruitment rules, and have appointed some other persons including the respondent No. 4 and ranked them senior in the seniority list issued on 27th July, 2000. The main grievance of the applicants is that the persons, who are not appointed through the prescribed procedure and the rules, have been granted seniority though their initial process of recruitment started much later than that of the ² ~~appoint-~~
^{all} ~~ment of the~~ applicants. On the other hand, the recruitment process of the applicants ^{has 2} ~~have been~~ started earlier and they have been recruited through prescribed mode of recruitment and because of delay in finalising the result they have been made junior to the private respondent No. 4.

3. Heard both the learned counsel for the parties and perused the records.

4. The learned counsel for the applicants argued that the respondents have started the recruitment process of the applicants from April, 1997 by preparing the eligibility list, and the final selection was made in September, 1998 which has taken more than one year, whereas in the case of the respondent No. 4, the recruitment process started much later but the selection was finalised in a very short time and he was appointed to the post of Diesel Assistant before the applicants. He ^{drawn} has/ our attention towards Para 306 of the IRFM which reads as

under :

"306. Candidates selected for appointment at an earlier selection shall be senior to those selected later irrespective of the dates of posting except in the case covered by paragraph 305 above."

5. On the other hand the learned counsel for the respondents states that the only relief claimed by the applicants is challenging the seniority list published by them on 27th July, 2000. They have subsequently published another seniority list in the year 2001, whereby the position of the applicants ^{has} been upgraded, and the applicants have not challenged the subsequent seniority list issued in the year 2001 which has superseded the list which is under challenge. Since the seniority list of 2001 has not been challenged the original Application has become infructuous. He has also submitted that the selection of the private respondent No. 4 and others were made in accordance with the rules and there is no delay on the part of the respondents to finalise the selection of the applicants. The contention of the applicants that the recruitment started in the year 1997 is not correct as at that time only eligibility list was published. According to ^{him} ~~them~~ the recruitment ^{process} started only in the year 1998 when the written examination was held and the recruitment process was finalised in September, 1998. Therefore there is no delay on the part of the respondents.

6. We have given careful consideration to the rival contentions made on behalf of the parties and we find that ends of justice would be met if we direct the applicants to make a fresh detailed representation to the respondents and the respondents on receipt of the same shall decide it by passing a speaking, detailed and reasoned order within a time frame manner.

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7. Accordingly, the Original Application is disposed of with a direction to the applicants to file a fresh detailed representation to the respondents within 4 weeks from the date of receipt of copy of this order. If the applicants complies with this, the respondents are directed to pass a detailed, speaking and reasoned order within three months from the date of receipt of such representation in accordance with rule and law. The applicants are at liberty to approach this Tribunal if they still feel aggrieved and so advised.

(Madan Mohan)
Judicial Member

(M.P. Singh)
Vice Chairman

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पृष्ठंकन सं ओ/न्या.....जबलपुर, दि.....
प्रतिलिपि अर्पित:-

- (1) सचिव, उच्च न्यायालय तार एसोसिएशन, जबलपुर
- (2) अटार्नेय जी/प्रीती/कु.....के कार्डसल M/s Varnu
- (3) प्रत्यक्षी श्री/प्रीती/कु.....के कार्डसल M/s Banerjee
- (4) वंशपाल, के.ए.ए., जबलपुर न्यायाधीश
सूचना एवं आवश्यक कार्यवाही हेतु

Bhimdas
उप रजिस्ट्रार
12/5/04

Filed
17.5.04