CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH
JABALPUR

Indore this the 23rd day of July 2004.

OA Nos.116/02, 138/02, 204/02
and 214/02

CORAM

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

OA No.116/02

Gulam Mohammad
S/o Khuda Baksh
R/o Railway Loco Colony
Block No.153-B
Ujjain (MP) ...Applicant

(By advocate Shri M.K.Verma)

Versus

1. Union of India through
The Chairman, Railway Board
Rail Bhawan, New Delhi.
2. General Manager
Western Railway, Churchgate
Mumbai.
3. Divisional Railway Manager
Western Railway
Ratlam (MP) ...Respondents

(By advocate ~~Shri M.N.Banerjee~~ None)

OA No.138/02

1. Kishore Kumar
S/o Kanhiyalal
R/o Kishan Chowk
Aihar Mohalla, Baghana
Neemuch.
2. Ramlal
S/o Ratan Lal
R/o Dhaneria Kala
Neemuch. ...Applicants

(By advocate Shri M.K.Verma)

Versus

1. Union of India through
Chairman, Railway Board
Rail Bhawan, New Delhi.
2. General Manager
Western Railway
Churchgate, Mumbai.
3. Divisional Railway Manager
Western Railway
Ratlam (MP) ...Respondents.

(By advocate ~~Shri M.N.Banerjee~~ None)

OA No.204/02

1. Mansoor M
   S/o Meeru Khan
   R/o Hakeem Badam
   Ratlam (MP)

2. Mohd Anees
   S/o Mohd Kamar
   R/o Sai Tola Yard Near Masjid
   Ratlam. ...Applicants

(By advocate Shri M.K.Verma)

Versus

1. Union of India through
   Chairman, Railway Board
   Rail Bhawan, New Delhi.

2. General Manager
   Western Railway, Churchgate
   Mumbai.

3. Divisional Railway Manager
   Western Railway
   Ratlam. ...Respondents

(By advocate Shri ~~M.N.Banerjee~~ None)

OA No.214/02

Manohar Singh
S/o Mohan Singh
R/o 52 P&T Colony
Ratlam. ...Applicant

(By advocate Shri M.K.Verma)

Versus

1. Union of India through
   Chairman, Railway Board
   Rail Bhawan, New Delhi.

2. General Manager
   Western Railway, Churchgate
   Mumbai.

3. Divisional Railway Manager
   Western Railway
   Ratlam (MP) ...Respondents

(By advocate ~~Shri M.N.Banerjee~~ None)

O R D E R

By Madan Mohan, Judicial Member

The question of law involved in all these four cases is identical. Hence these four applications are being disposed of by a common order.

2. The applicant in OA 116/02 entered into the service of respondent department on the post of Cleaner i.e. Class IV

Category. Subsequently the applicant was promoted to the post of Fireman Gr.'C' with effect from 10.7.79. The post of Fireman Grade I was kept at par with Diesel Assistant. As required, the applicant underwent a training for operating diesel locomotive and received the training. The applicant was working as Fireman Grade I on adhoc basis (Annexure A1). Fireman Grade I is a selection post and the applicant was required to undergo the selection test for getting regular promotion to the post of Fireman Grade I. The applicant was called upon for interview in the selection process of Fireman Grade I. After the technical compliance of the selection process, the respondent authority declared the applicant unsuccessful in the interview. The railway board had taken a decision on 27.11.75 which was circulated vide Railway Circular dated 25.1.76 which reads as follows:

> "Panels would be formed for selection posts in time to avoid adhoc promotions, care should be taken to see, while forming panels that employees who have been working in the posts on adhoc basis quite satisfactorily are not declared unsuitable in the interview. In particular, any employee approaching the field of consideration should be saved from harassment".

The Tribunal had decided the same point of law in OA No.211/95 (Mulchand & Others Vs. Union of India & Others) vide judgement dated 13.3.2001. The applicant herein is identically situated as the applicant in OA 211/95. The applicant in OA 211/95 also finds a place in A-2 panel along with the applicant herein. With these allegations, the applicant in OA 116/02 seeks the following reliefs:

(i) To declare that the applicant could not have been declared unsuccessful in the interview by the respondent authorities as per Railway Board circular dated 25.1.76 (A-4) and the proposition of law given by this Tribunal in OA 211/95 (Mulchand and others Vs. Union of India & others (A-5).

(ii) To Direct the respondent authorities to regularise the promotion of the applicant w.e.f. 14.12.1993 from the date the applicant's juniors had been promoted.

(iii) To grant similar relief to the applicant as granted to the applicant in OA 211/95 on the principle of parity and equity.

(iv) To grant similar relief to the applicant as granted to the applicants in OA 740/2001 (Abdul Salam S. & others Vs. UOI & Ors (Annexure A-6) on the principle of parity and equity.

(v) To grant all consequential benefits to the applicant.

3. Heard learned counsel for both parties. The learned counsel of the applicant has drawn our attention to the order passed in OA 211/95. Paragraph 7 of the judgement reads as follows:

> "Accordingly, this OA is partly allowed with a direction to the respondents that based on the selection ordered and panel prepared on 14.12.93, the applicants shall be deemed to be regularised in the post of Fireman Grade I/ Diesel Assistant w.e.f. the same date their juniors were regularised based on the said panel and the seniority determined accordingly."

Our attention has been drawn to another order passed by the Tribunal in OA 740/01 (Annexure A6), the operative portion of which reads as follows:

> "We have heard the learned advocate of the applicant and have gone through the judgement dated 13.3.01 passed in OA 211/95. We find that this OA has been filed within one year of that judgement and the case of these applicants is squarely covered by the aforesaid judgement dated 13.3.2001. Accordingly the judgement dated 13.3.2001 passed in OA 211/95 shall be mutatis mutandis made applicable to the applicants in this case."

4. The learned counsel of the applicants argued that the case of the applicants in all these four cases is squarely covered by the aforesaid decisions.

5. Heard the learned counsel for the respondents also.

6. We find that these fours OAs are squarely covered by the decision dated 13th March 2001 in OA 211/95 and the the decision dated 14th Dec. 2001 in OA 740/01 and the aforesaid decision is to be made applicable mutatis-mutandis to the applicants in all these cases.

7. We also find that the facts in OA No.138/02, 204/02 and 214/02 are almost similar and the reliefs sought by the applicants in those OAs are also identical.

8. Accordingly, all these four OAs are allowed. The respondents are directed to consider the regularisation of the applicants w.e.f. 14.12.1993 from the date their juniors had been promoted and regularised., and their seniority determined accordingly.

9. Respondents are directed to comply with this order within three months from the date of receipt of the copy of the order. No costs.

(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 M.K. Verma
(3) प्रत्यर्थी श्री/श्रीमती/कु...........................के काउंसल M.N. Banerjee
(4) ग्रंथपाल, कैप्रअ, जबलपुर न्यायपीठ
सूचना एवं आवश्यक कार्यवाही हेतु
उप रजिस्ट्रार 3-8-04

Issued on 4-8-04