


CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH  
JABALPUR

O.A.No.446 of 2000

Hon'ble Shri J.K.Kaushik, Judicial Member

for consideration pl.

  
(R.K.Upadhyaya)  
Administrative Member  
1.5.2003

I agree  


CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH  
JABALPUR

Original Application No.446 of 2000

Jabalpur, this the 2<sup>nd</sup> day of May, 2003

Hon<sup>ble</sup> Mr. R.K. Upadhyaya - Administrative Member  
Hon<sup>ble</sup> Mr. J.K. Kaushik - Judicial Member

1. Raja Ram Kushwaha, aged about 49 years,  
S/o Shri Pancham, Manorama Ward, Bina (M.P.).
2. Jagdish Prasad Tiwari, aged about 48 years,  
S/o Shri Balmukund Tiwari, Railway Qr. No.  
H-80-E, West Railway Colony, Bina (M.P.).
3. Jagdish Prasad, aged about 41 years, S/o Shri  
Laxmi Narain, Sardar Patel Nagar, House No. 131,  
In the house of Durga Yadava (near Bharat  
Talkies), Bhopal (M.P.).
4. Atkul Rehman, Assistant Guard, Bina (M.P.).
5. Babu Lal Raikwar, aged about 45 years,  
S/o Shri Hira Lal Raikwar, Railway Qr.  
No. MAPJ-189-A-B, West Railway Colony,  
Bina (M.P.).

- Applicants

(By Advocate - Shri S.K. Nagpal)

Versus

1. Union of India through the Secretary,  
Ministry of Railways, Railway Board,  
Rail Bhawan, New Delhi.
2. General Manager, Central Railway, Mumbai, CST (Maha.)
3. Divisional Railway Manager, Central Railway,  
Bhopal (M.P.).

- Respondents

(By Advocate - Shri N.S. Ruprah)

O R D E R

By R.K. Upadhyaya, Administrative Member -

These applicants have claimed the following reliefs-

- (i) The impugned order (Annexure A/1) be quashed.
- (ii) The applicants be treated as to have been promoted  
to the posts of Assistant Guard on regular basis  
from the date of their promotion ...."

The respondents vide their order dated 2.5.2000 (Annexure-A-1) have terminated the adhoc promotion of the applicants as Assistant Guards in the scale of Rs. 3050-4590. In this order dated 2.5.2000, it has been stated that the applicants had filed O.A. No. 453/1989 in this Tribunal and in pursuance to orders of the Tribunal the applicants were promoted on adhoc and provisional basis subject to final decision of the OA. Since the applicants have withdrawn that OA 453/89, this impugned order has been passed by which the adhoc arrangement has been terminated with immediate effect.

Contd. .... 2/-

2. It is claimed by the applicants that they were working as Pointsmen under Divisional Railway Manager, Bhopal. A selection test was held for promotion to the post of Assistant Guard in the scale of Rs.950-1400, in which the applicants had appeared. The applicants were declared successful as per order dated 3.9.1987 (Annexure-A-2). It is claimed that in spite of being declared successful the respondents have not sent the applicants for training for the post of Assistant Guard on the plea that the Pointsmen were not entitled for promotion to the post of Assistant Guard. It is further stated that the applicants along with some others filed O.A.No.453/1989 claiming direction for being sent for training to be held in the Zonal Training Centre (for short 'ZTC'), Bhusawal from 21.8.1989 and also direction for appointment as Assistant Guards. Before the said OA could be finally decided, the applicants were sent for training at ZTC, Bhusawal. The applicants at serial nos. 1, 2, 3 and 4 were declared successful and applicant at serial no. 5, who was declared as unsuccessful was sent for subsequent test and later on was declared successful. The applicants at serial nos. 1 to 4 were promoted as Assistant Guards as per order dated 29.6.1995 whereas applicant no. 5 was promoted vide order dated 30.12.1995 on adhoc basis. The claim of the applicants is that they have undergone a training and were promoted as Assistant Guards, therefore, the impugned order of 2.5.2000 (Annexure-A-1) was not justified. It is also claimed that the applicants have worked satisfactorily and continuously as Assistant Guards since 1995. Therefore, they should have been not treated as adhoc even though it was so stated in their promotion orders. The learned counsel of the applicant stated that persons duly selected and satisfactorily working should not be reverted.

3. The respondents in their reply have stated that the adhoc promotion order of the applicants of 1995 was

purely provisional and officiating capacity. The promotion orders state that the promotion was purely adhoc and subject to the final decision of the CAT in OA 453/1989 and it "will not confer on them any prescriptive right of continuance in the higher grade over their seniors".

3.1 According to the learned counsel of the respondents, the posts of Assistant Guard were being surrendered and there were instructions to the effect that adhoc arrangements were to be terminated and even the vacancies were directed not to be filled in. In the circumstances, the applicants were rightly reverted to their substantive post of Pointsman. It is also stated by the respondents that the notification inviting applications of selection test of Assistant Guards was issued by the Divisional Railway Manager, Jhansi on 27.4.1985. Consequent to the formation of Bhopal Division with effect from 1.7.1987, the applicants were working in the portion/section which subsequently became part of Bhopal Division and the applicants were also became part of Bhopal Division. When the applications were invited by the Jhansi Division, the applicants had applied and were successful in the written test conducted by the Jhansi division. The applicants were required to undergo viva voce test also but after viva voce test of first 70 candidates on 6.4.1987, further viva voce test was not conducted. With the formation of Bhopal Division with effect from 1.7.1987, 46 persons out of 210 declared successful candidates in the written examination, were working in the area now forming part of Bhopal division. It was decided by the DRM Bhopal that the persons who were qualified in the written test and were allocated to Bhopal Division, could be utilised as Assistant Guard on adhoc arrangement as and when required. However, it was detected that there were several irregularities in the selection for the post of Assistant Guards conducted at Jhansi Division. Therefore, the competent authority cancelled the said selection process. A copy of such an order dated 1.10.1987 has been filed as Annexure-R-6 which states that

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"the selection process conducted for the post of Asstt. Guards has been cancelled. Fresh notification for calling the applications for the post of Asstt. Guard will be issued separately". Even the DRM, Jhansi informed his counter part that the panel of Assistant Guards on the basis of passing of written test was cancelled. The learned counsel of the respondents stated that on these facts the applicants cannot assert that they have passed the selection process of Assistant Guards and were duly promoted as Assistant Guards. According to the learned counsel, the applicants had undergone training at ZTC, Bhusawal on account of interim orders during the pendency of OA 453/1989. Since the applicants themselves had withdrawn that OA, no benefit arisen therefrom was available to the applicants. In other words, it was urged that adhoc and provisional promotion of the applicants could not be treated as regular promotion and, therefore, the reversion order was justified, on the facts of this case.

4. We have heard the learned counsel of both the parties and have perused the material available on record.

5. There is no dispute that the applicants had earlier passed the written test while they were posted under the jurisdiction of DRM, Jhansi. It is also now admitted position that the applicants had not qualified in the said selection process completely inasmuch as they had not undergone the viva voce test. In any case, that selection process has now been cancelled and no benefit can accrue to the applicants for passing a part of the selection process. We are also of the view that attending training course at ZTC, Bhusawal was only an interim order by the respondents during the pendency of the OA 453/1989. Passing of that training course is not a normal selection process of making the applicants eligible for being promoted as Assistant Guards. In

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any case, the adhoc arrangement does not bestow any invincible right in favour of the applicants. The person who is given adhoc promotion even though he is ~~either~~ <sup>otherwise</sup> eligible to hold that post cannot claim any right for holding that post. In this view of the matter the impugned order of reversion cannot be assailed. Even, otherwise, any assurance by the counsel of the respondents without pre-selection qualification of the applicants does not bestow any right in favour of the applicants. In the circumstances, we find no justifiable reason to grant the relief of quashing the impugned order dated 2.5.2000(Annexure-A-1).

6. In the result, the OA is dismissed. The interim order of maintenance of status quo stands vacated. In the facts and circumstances of the case, the parties are directed to bear their own costs.

*J.K. Kaushik*  
(J.K. Kaushik)  
Judicial Member

*R.K. Upadhyaya*  
(R.K. Upadhyaya)  
Administrative Member.

rkv.

Issued  
On 12.5.03  
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पृष्ठान्त से ओ/न्या. जलपुर, दि.

(1) सचिव, जलपुर  
(2) जलपुर  
(3) जलपुर  
(4) जलपुर  
S K Nagrecha, Ach.  
N S Nagrecha, Ach.  
J. K. Kaushik  
8/5/03