

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

JABALPUR BENCH
CIRCUIT AT INDORE

Date of Order : 5.9.2003

O.A. No. 521/1999.

1. Mahaveer Prasad Meena S/o Shri Phoolsingh Meena, aged Clerk Scale Rs.950-1500 under Sr. Divisional Engineer, Ratlam, R/o New Railway Colony, Ratlam.
2. Ramgopal S/o Khilan Singh, aged 34 years, Clerk Divisional Office Ratlam, R/o Jangal Colony, Ratlam (MP).
3. Shivaraj singh Chahar S/o Shri Niranjan Singh Chahar, aged 32 years, resident of Diesel Shed Road, Ratlam (MP).
4. Vasudeo Meena S/o Devalaram Meena aged 29 years, Clerk DRM Office Ratlam, Resident of Simla Colony, Ratlam
5. Noor Ahmed Khan S/o Abdul Kareem Khan, aged 32 years, Clerk under Assistant Engineer, W. Rly. Ujjain.
6. Imtiyaz Ahmed S/o Lal Mohammed, aged 41 years, Clerk under CTCI office-Ratlam, R/o Near Kazi Khan Masjid, Jaora Road-Ratlam (MP).
7. Sureshchandra Marwal S/o Vardichand Marwal, aged 40 years, Clerk, DRM Office, Ratlam R/o Old Railway Colony, Ratlam.
8. Smt. Agnes Agik W/o Franklin Agik, aged Clerk under CTCI office-Ratlam, R/o Sailana Yard-Ratlam, MP.
9. Vijay Kumar Desai S/o Gunwant Desai, aged 40 years, Clerk under TFO P Office-Ratlam, R/o 104, Indralok Nagar, Ratlam (M.P.)
10. Kumari Bharati Vithalrao D/o aged 40 years, Clerk General Branch DRM Office-Ratlam. R/o Ashok Bhavan, Station Road, Ratlam (M.P.).
11. Rajendrasingh Rajcra, S/o Ranjeetsingh, aged 38 years, Clerk DRM office, Ratlam R/o Ghatla colony, Ratlam (MP).
12. Yashwant Rao More S/o Sarwan Rao More, aged 39 years, Clerk, under S.M. Ratlam R/o P & T Colony, near Meera Kuti, Ratlam (M.P.).
13. Mangilal Meena S/o Kishanlal Meena, aged 40 years, Clerk, CTRI Ratlam R/o New Bank Colony, Road No.5 Ratlam (M.P.).
14. Kanti Kumar S/o Mathuralal aged 39 years, Clerk under IFO (Diesel) Ratlam R/o Parsi compound, Jaora Road, Ratlam (MP.)



15. Rajesh Kumar Shrivastava S/o Aged 38 years, Clerk under DRO (Diesel) Ratlam, R/o Badi Line, Jaora Road, Ratlam (M.P.)
16. Nitin Dronkar S/o Prabhakar Dronkar, aged 37 years, Clerk CTCC Ratlam, R/o House No. 435, Katju Nagar, Ratlam (M.P.).
17. Nagendrakumar Shrivastava S/o Jagan Nath Prasad Shrivastava, aged 42 years, Clerk DRE Office Ratlam, Resident of Behind Railway Co-operative Stores, Railway Colony-Ratlam (M.P.).

... Applicants.

v e r s u s

1. Union of India through General Manager, Western Railway, Churchgate, Mumbai-20.
2. Divisional Railway Manager, Western Railway, Dobatti, Ratlam.

... Respondents.

Shri G. L. Gupta counsel for the applicants.
Shri Y. I. Mehta, Senior Advocate, & Shri H. Y. Mehta counsel for the respondents.

CORAM

Hon'ble Mr. V. K. Majotra, Administrative Member.
Hon'ble Mr. J. K. Kaushik, Judicial Member.

: O R D E R :
(per Hon'ble Mr. J. K. Kaushik)

Mahaveer Prasad Meena and 16 others have filed this OA under Section 19 of the Administrative Tribunals Act, 1985, for seeking a direction to the respondents to delete the word ad hoc promotion from the order dated 17.01.1997 (Annexure A-2) issued by respondent No.2 and have prayed for the following reliefs :-

"8.1 That the order dated 30.08.1999 (Annexure A-1) and dated 25.08.1999 (Annexure A-3) are to be declared illegal and to be quashed.



8.2 That kindly direct the respondents to delete the words Ad hoc promotion from the order dated 17.01.1997 Annexure A-2 issued by the respondent no.2 and regularly promotion due to upgradation word has to be substituted or amended order of regular promotion from the date of upgradation may kindly be passed and the consequential benefit be given to applicants."

2. We have heard the learned counsel for the parties and have perused the records of the case very carefully.

3. A short recital of admitted facts which are material in resolving the controversy involved in this case would suffice. All the applicants were promoted on regular basis to the post of Clerks from different branches under the Division Railway, Ratlam, after due selection in the scale of Rs. 825-1200/- vide letter dated 19.04.1995 (Annexure A-4) and 17.05.1995 (Annexure A-5). The post of clerk in the pay scale of Rs. 825-1200/- was being operated after down grading the post of clerk in the scale of Rs. 950-1500. This post came to be restored somewhere in the year 1999. For the said restored post, the respondents organised a selection vide order dated 30.08.1999. Applications were called from eligible clerks who are working on the downgrading post in the pay scale of Rs.825-1200. The selection was held and the result has been declared vide Annexure R-1 letter dated 10.01.2000. All the applicant except one at Sl. No. 17 undertook the examination, some of them have been declared selected as indicated in Para 2 of the reply.

4. The case of the applicants is that they were posted against the post of Clerk which was restored from the scale of Rs. 825-1200 and the word ad hoc mentioned on the promotion letter is a misnomer and they were not required to undergo

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any selection for the said post but they have compelled to appear in the selection, despite their being no necessity for appearing in the same. There was protest from the side of the applicants vide Annexure P-3 but the respondents continued with the selection and completed the process.

5. Now taking up certain variances in the pleadings. It has been averred on behalf of the applicant in the pleadings that it was a case of upgradation of post to the scale of Rs.950-1500 revised to the scale Rs.3050-4590/- and the applicants and other 14 were promoted on ad hoc basis. Since they were posted against the upgradation post no selection was required to be held as per the judgement which has been quoted in the application for production of documents. It is also averred that the selection process was once cancelled but the same was started afresh. As far as the variances in the pleadings on behalf of the respondents are concerned, it has been averred in the reply that the post of clerk carrying the pay scale of Rs.950-1500/- was temporarily reduced to the grade of Rs.825/- and the applicants were adjusted on these down graded posts and the department never intended to promote the applicants jumping to the scale of Rs.950-1500/-. Thus they had lien only on the post in the pay scale of Rs. 825/-. It is also contended that the applicants were promoted to the grade of Rs.950 down graded to Rs.825/-. On down grading of the post they were automatically entitled to be restored and it is a wrong interpretation by the applicants. In fact they have got next channel of promotion to the post in the scale of Rs.950/-

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6. From the facts stated above, the only question which boils down for adjudication by this Tribunal is as to whether once the applicants have faced the selection and promoted to the post of clerk in the scale of Rs.825-1200/- which was admittedly down graded earlier, would be required to appear again for the selection test for the actual post of clerk in the scale of Rs.950-1500/- on restoration of the grade. We first want to make it clear that as per ~~xx~~ Para 2 of the reply, it has been clearly mentioned that certain applicants appeared and failed and ~~they~~ have not been selected for the post of clerk in view of Annexure A-1 which was restored to the scale of Rs.950-1500/- It is evident that all the applicants on the post of clerk in the down graded scale of Rs.825-1200 have faced the selection for the post of clerk while the post was in down grade^{state.} We were also informed by the learned counsel for the respondents that the post had to be down graded earlier since the eligible candidates were not available. However, it was frankly admitted that all these applicants have earlier passed selection test for the post of clerk. If that be so, at least the post is same and the only ^{was that} change/earlier it was downgraded and now it's restored. We have not been shown any law that for the same post two selection tests can be held. Once the applicants have already passed the selection for the same post may be in its downgraded state by no stretch of imagination there could be any possible justification for passing the same selection again when the post of clerk is brought to its original grade. Thus, we are of the firm opinion that there was no need for conducting the second selection for the same post.

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7. In the premises, the OA has ample force and the same is hereby allowed. The impugned order Annexure A-2 ~~which~~ which is modified to the extent that the ad hoc word wherever it appears shall stands as deleted and the respondents are directed to treat all the applicants as holding the post of clerk in the scale of Rs.950-1500/3050-4950/- on substantive basis from the date they have promoted on ad hoc basis and shall also be entitled to all consequential benefits. There shall be no order as to costs. This order shall be complied with in a period of 3 months from the date of receipt of a copy of the same.

JK
(J. K. KAUSHIK)
MEMBER (J)

VKM
(V. K. MAJUTRA)
MEMBER (A)

दृष्टिकोण सं ओ/ला..... जवलपुर, दि.....
प्रतिविधि अन्वयित :-
(1) सदिय, इसी वार्षिकीय बास प्रमोशनश्ल. जवलपुर
(2) अन्वयित वार्षिकीय बास कोउंसल
(3) प्रसादी वार्षिकीय बास कोउंसल
(4) वार्षिकीय बास, जवलपुर व्यापारीठ
सूचना एवं आवश्यक कार्यसाही हेतु

JK
16/9/03

*GL Gupta, Ady. Radhika
y. I. metha, Ady. Indore*

*Received
On
17/9/03*