

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH

JAIPUR, this the 19th day of March, 2009

ORIGINAL APPLICATION No.466/2005

CORAM:

HON'BLE MR.M.L.CHAUHAN, MEMBER (JUDICIAL)
HON'BLE MR. B.L.KHATRI, MEMBER (ADMINISTRATIVE)

1. Smt. Sunita Roy w/o Shri Anil Roy, presently posted as Office Superintendent Gr.II r/o 25, Kailashpuri, Jagatpura, Jaipur
2. Jagdish Narain Meena s/o Shri K.S.Meena, presently posted as Office Superintendent Gr.II, resident of c/o 22, Barkat Nagat, Tonk Phatak, Jaipur
3. Narain Lal Meena s/o Shri Mangla Ram Meena, presently posted as Head Clerk, r/o Village and Post Kukas, Tehsil Amber, Distt. Jaipur
4. Ghamman Lal Meena s/o K.R.Meena, presently posted as Head Clerk, r/o D-253, Kusum Vihar, Jagatpura, Jaipur
5. Kedar Prasad Meena s/o Shri Kalu ram Meena, presently posted as Head Clerk r/o B-259, Shanti Nagar, Dausa.
6. Tara Chand Meena s/o Shri Suwa Lal Meena, presently posted as Head Clerk, r/o village and post Jajekalan, Tehsil Shahpura, Distt. Jaipur.
7. Net Ram Mehrania s/o Shri Bahadur Mal, presently posted as Head Clerk, resident of c/o D-62, Shanti Nagar, Hasanpura, Jaipur
8. Ram Gopal Meena s/o S.L. Meena, presently posted as Senior Clerk r/o Rly. Quarter No. 20, Jagatpura Station, Jaipur
9. Ravindra Singh s/o Shri Mal Singh, presently posted as Senior Clerk r/o E-20, Shastri Nagar, Jaipur.
10. Ram Kalyan Verma s/o Shri N.S.Verma, presently posted as Senior Clerk r/o village and post Jamwa Ramgarh, Near Airtel Tower, Distt. Jaipur.

.. Applicants

By Advocate: Shri Virendra Lodha

Versus

1. Union of India through General Manager, North Western Railway, Jaipur
2. Chief Personnel Officer, North Western Railway, Jaipur
3. Finance Advisor and Chief Accounts Officer (F.A.& C.A.O), North Western Railway, Jaipur

.. Respondents

By Advocate: Shri S.S.Hasan

O R D E R

Per Hon'ble Mr. M.L.Chauhan

The applicants have filed this OA thereby praying for the following reliefs:-

"It is, therefore, respectfully prayed that the Hon'ble Tribunal may kindly be pleased to call for the entire record pertaining to issuance of impugned order dated 29.3.2005 and after examining the same be pleased to declare the said order (Annexure A/1) null and void and be quashed and set aside.

By further appropriate order or direction any tentative or final seniority list issued contrary to the seniority list to be issued on zonal basis i.e. at Jaipur being zonal seniority list of Statistical Department on account of restructuring of the cadre and formation of North Western Railway having headquarter Jaipur simultaneously any seniority list issued contrary to aforesaid at Jodhpur qua Statistical Wing, the same may kindly be taken on record and be declared null and void and be quashed and set aside.

By further appropriate order or direction the official respondents be directed to prepare a zonal seniority list based on the length of service in their respective posts and accord promotion to the applicants on the higher posts

Yours

under restructuring scheme on the basis of zonal seniority list with all consequential benefits.

By further appropriate order or direction the respondents be directed to form the cadre of Statistical Branch at Zonal level and thereby pass any order governing the service conditions of the applicants.

By further appropriate order or direction if any order prejudicial/detrimental to the interest of the applicants is passed the same may kindly be taken on record and after examining the same be quashed and set aside.

Any other order or direction which the Hon'ble Tribunal deems fit and proper in the facts and circumstances of the case be passed in favour of the applicants.

Cost of the O.A. may kindly be awarded in favour of the applicants.

2. Briefly stated, facts of the case are that the applicants are presently working as Senior Clerk/Head Clerk/Office Superintendent in Statistical Department under Jaipur Unit. Their grievance in this case is that for the purpose of granting benefit of restructuring, the respondents should have adhered to the common seniority list of the employees working in Ajmer unit and Jodhpur unit and the decision taken by the respondents vide impugned letter dated 29.3.2005 whereby it has been stated that benefit under restructuring of the ministerial staff of Jodhpur and Ajmer units of Statistical Department w.e.f. 1.1.2003 shall be granted on the basis of unit-wise seniority instead of adhering to the joint seniority list of statistical staff working under Ajmer and Jodhpur units, as was prevalent before the issue of policy decision dated 29.3.2005 whereby employees of

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Statistical Department working in these units were treated as centralized cadre.

3. Notice of this application was given to the respondents. The respondents have filed reply thereby justifying their action.

4. When the matter was listed on 20.8.2008, this Tribunal after hearing the parties, passed the following order, which thus reads:-

"Heard learned counsel for the parties. Grievance of the applicants is with regard to the impugned order dated 29.3.2005 (Ann.A/1), whereby it has been stipulated that the persons who have been transferred from Jodhpur Unit will maintain their respective seniority, whereas the persons who have been transferred from Ajmer Unit to North-Western Railway Cell will maintain their respective seniority for the purpose of restructuring.

The instructions are not clear as to whether the aforesaid instructions have been issued as an interim measure till the regular cadre of Statistical Wing is not created by the North-Western Railway or these instructions will be followed by the respondents even after the creation of permanent cadre of the aforesaid Cell.

Let an affidavit be filed in this regard by learned counsel for the respondents within 15 days.

Let the matter be listed on 16.9.2008. CC to learned counsel for the respondents."

Pursuant to the direction issued by this Tribunal, the respondents have filed additional affidavit. At this stage, it will be useful to quote para 3,4,5 and 6 of the said affidavit, which thus reads:-

"3. That earlier the cadre of Statistical department which was centralized at both the parent Railways is now decentralized in North Western Railway. The re-structuring is to be implemented on the cadre available as on 31.10.2003/1.11.2003 on both the units at Jodhpur and Ajmer in Statistical department separately. The seniority of staff working in Hqr against the posts of Jodhpur and Ajmer units will be maintained in their parent units, i.e. employees of Northern Railway at Jodhpur and employees of Western Railway at Ajmer w.e.f. 1.11.2003.

4. That after implementation of re-structuring, the three units, i.e. Hqr. Jaipur, Ajmer and Jodhpur units, are to be operated for Statistical department in North Western Railway based on administrative requirements, proper co-ordination, day to day working and monitoring purposes. Subsequently, as far as seniority of ministerial staff is concerned, the seniority for promotion from Jr. Clerk to Head Clerk will be maintained unit-wise and from Office Superintendent Gr.II to Chief Office Superintendent, the combined seniority for all the three units will be maintained at Hqr. Office Jaipur in view of administrative exigencies and benefit of staff.

5. That as regards to the cadre position of Statistical Inspectors, it is mentioned that their seniority shall be maintained as a combined seniority at Hqr. Office Jaipur by the Personnel Branch w.e.f. 1.11.2003.

6. That since the re-structuring is pending only for the Ministerial staff in two units of Statistical Department w.e.f. 1.11.2003, after re-structuring on the basis of the seniority maintained in the parent units, i.e. at Jodhpur and Ajmer, three units, i.e. Hqr. Office Jaipur, Jodhpur and Ajmer are to be operated as Statistical department of Northern Railway."

5. We have heard the learned counsel for the parties and gone through the material placed on record.

6. The question which requires our consideration is whether it was open for the respondents to deviate from its earlier policy decision thereby treating

W.C. ministerial staff of the Statistical Branch of Ajmer

and Jodhpur units as centralized cadre. It may be stated here that before formation of the new railway zone in which zone the applicants alongwith other persons have exercised their option for absorption, the Jodhpur was under North Railway zone whereas Ajmer was under administrative control of Western Railway. The respondents have given reason as to why they have deviated from earlier policy decision and have treated the employees working at Jodhpur and Ajmer Division as separate unit for the purpose of granting benefit under restructuring scheme instead of treating the same as centralized cadre. The respondents have stated that in the statistical branch of the Railways, the Northern Railway was having the Department Unit at Jodhpur, Delhi and Jalandhar Cantt. and in the Western Railway at Ajmer, Mumbai and Delhi Kishanganj. The respondents have further stated that in the Western Railway, the posts of Chief Office Superintendent are centralized post and the Office Superintendent Grade-I and II, Head Clerk, Senior Clerk and Clerk are decentralized post and in the Northern Railway, the post of Chief Office Superintendent and the Office Superintendent Gr.I and II are centralized posts and the post of Head Clerk/Senior Clerk are decentralized posts. Thus, according to the respondents, in order to frame uniform policy in respect of employees working under different railway zones, policy vide Ann.A1 was framed on the basis of the agreement between the Trade

Unions and the Management whereby it was decided that all the posts of the Statistical Branch be decentralized and seniority should be assigned unit-wise in the North Western Railway. Thus, there is no infirmity in the action of the respondents whereby they are resorting to unit-wise seniority for the purpose of granting benefit under restructuring scheme w.e.f. 1.11.2003. The respondents in the additional affidavit have categorically stated that seniority of ministerial staff for promotion from Junior Clerk to Head Clerk will be maintained unit-wise and from Office Superintendent Gr.II to Chief Office Superintendent, the combined seniority for all the three units will be maintained at Headquarter Office, Jaipur in view of the administrative exigencies and benefit of staff. In fact the policy decision taken by the respondent vide Ann.A1 is in conformity with the practice which was prevalent in the Northern Railway where the posts of Head Clerk/Sr. Clerk were treated as decentralized posts and has slightly departed from the practice which was prevalent in the Western Railway where besides the post of these two categories, the post of Office Superintendent Grade-I and II were also treated as decentralized posts.

7. Now the sole question which requires our consideration is whether it was permissible for the newly created railway zone to depart from the policy

decision which was prevalent in the Western Railway and to adopt the policy decision which was prevalent in the Northern Railway in respect of the employees belonging to ministerial staff of the cadre of Junior Clerk and Head Clerk while considering the claims of employees of the aforesaid category belonging to two different railway zones for the purpose of absorption in the newly created railway zone. According to us, it is always open for the appropriate authority to frame administrative policy keeping in view the changed circumstances and it cannot be said that the policy once framed will be good for ever. As can be seen from the impugned order Ann.A1, the said policy has been framed by the General Manager of North Western Railway and such a policy decision could have been taken by the General Manager in terms of the provisions contained in Para 123 and 124 (old Para 156 and 157) of the Indian Railway Establishment Code. At this stage, it will be stated that validity of this provision has been upheld by the Constitutional Bench of the Hon'ble Apex Court in the case of B.S.Vadera vs. Union of India, AIR 1969 SC 118 and it was held that Railway Board and General Managers are empowered to frame rules for regulating the conditions of service of the employees. According to us, if some hardship has been caused to some of the employees like the applicants because of the changed policy, on that account the policy decision cannot be quashed.

8. Further, in view of the stand taken by the respondents in Para-4 of the additional affidavit, which has been reproduced hereinabove, the grievance of applicant No.1 and 2 who are Office Superintendent Grade-II does not survive as the cadre of Office Superintendent Grade-II has been treated as centralized cadre for which combined seniority of all the units will be maintained at Headquarter Office, Jaipur.

9. For the foregoing reasons, we are of the view that other applicants have also not made out a case for grant of relief. Accordingly, the OA is dismissed with no order as to costs.

10. The interim relief granted on 4.10.2005 and continued from time to time shall stand vacated.


(B.L.KHATRI)
Admv. Member


(M.L.CHAUHAN)
Judl.Member

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