

**CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR**

ORDER SHEET

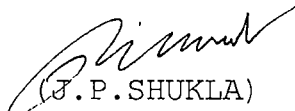
ORDERS OF THE TRIBUNAL

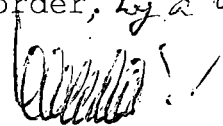
26.2.2008

OA 267/2006 & *OA 273 and 274/06*

Mr. Shiv Shanker, proxy counsel for
Mr. P.V. Calla, counsel for applicant.
Mr. Alok Garg, counsel for respondents.

Heard the learned counsel for the parties.
The OA stands disposed of by a separate order, *by a common order*


(J.P. SHUKLA)
MEMBER (A)


(M.L. CHAUHAN)
MEMBER (J)

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH, JAIPUR.

Jaipur, the 26th day of February, 2008

CORAM :

HON'BLE MR.M.L.CHAUHAN, JUDICIAL MEMBER
HON'BLE MR.J.P.SHUKLA, ADMINISITRATIVE MEMBER

1. ORIGINAL APPLICATION NO.267/2006

Deepak R. Bhatnagar,
Shunter (Loco Pilot),
O/o Loco Foreman,
Railway Loco Running Shed,
Ajmer.

... Applicant

(By Advocate : Shri Shiv Shanker, proxy counsel for
Shri P.V.Calla)

Versus

1. Union of India through
General Manager,
North Western Railway,
Opposite Railway Hospital,
Jaipur.
2. Divisional Railway Manager,
Ajmer Division,
Ajmer.
3. Shri Ram Singh Yadav,
Shunter (Loco Pilot),
Loco Shed,
Abu Road.

... Respondents

(By Advocate : Shri Alok Garg)

2. ORIGINAL APPLICATION NO.273/2006

Bhanwar Singh Rawat,
Shunter (Loco Pilot),
O/o Loco Foreman,
Railway Loco Running Shed,
Ajmer.

... Applicant

(By Advocate : Shri Shiv Shanker, proxy counsel for
Shri P.V.Calla)

Versus

1. Union of India through
General Manager,
North Western Railway,
Opposite Railway Hospital,
Jaipur.
2. Divisional Railway Manager,
Ajmer Division,
Ajmer.
3. Shri Brij Mohan,
Shunter (Loco Pilot),
Loco Shed,
Ajmer.

... Respondents

(By Advocate : Shri Alok Garg)

3. ORIGINAL APPLICATION NO.274/2006

Umesh Mishra,
Shunter (Loco Pilot),
O/o Loco Foreman,
Railway Loco Running Shed,
Ajmer.

... Applicant

(By Advocate : Shri Shiv Shanker, proxy counsel for
Shri P.V.Calla)

Versus

1. Union of India through
General Manager,
North Western Railway,
Opposite Railway Hospital,
Jaipur.
2. Divisional Railway Manager,
Ajmer Division,
Ajmer.
3. Shri Bharat Lal Meena,
Shunter (Loco Pilot),
Loco Shed,
Abu Road.

... Respondents

(By Advocate : Shri Alok Garg)

ORDER (ORAL)

PER HON'BLE MR.M.L.CHAUHAN

As the facts and question of law involved in all these three applications is common, we propose to dispose of these applications by this common order.

2. For the purpose of decision of these cases, it is useful to quote the facts as mentioned in OA 267/2006 (Deepak R.Bhatnagar). The applicant of this OA has filed this application thereby praying for the following relief :

- "i) The impugned order Ann.A/1 dated 18.7.2006 in so far as it relates to the applicant and respondent No.3 may kindly be declared illegal;
- ii) by an appropriate writ, order or direction the official respondents to allow the applicant to work on the post of Shunter scale Rs.4000-6000 (Loco Pilot) as if the impugned order Ann.A/1 has never been issued.
- iii) The Original Application may kindly be allowed with costs."

3. Briefly stated, the facts of the case are that all the applicants were promoted to the post of Loco Pilot (Shunting) in the pay scale of Rs.4000-6000 vide order dated 6.6.2001 (Ann.A/3). Vide impugned order dated 18.7.2006 (Ann.A/1) they were reverted from the post of Loco Pilot (Shunting) to the post of Senior Loco Pilot (Assistant Driver) in the same pay scale i.e. Rs.4000-6000. Being aggrieved by such action of the respondents, the applicants have filed these OAs thereby praying for the aforesaid relief.

4. Notices of these applications were given to the respondents, who have filed their reply. In the reply, the respondents have stated that the applicants and twenty other employees were promoted as Loco Pilot (Shunting) in the pay scale of Rs.4000-

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6000 in the Link vacancies of higher grade of Loco Pilot (Goods) in the pay scale of Rs.5000-8000. Thus, applicant(s) and 20 other Loco Pilot (Shunting) became in excess to the available cadre strength. Hence they were reverted from the post of Loco Pilot (Shunting) scale Rs.4000-6000 to the post of Senior Loco Pilot (Assistant Driver) in the same pay scale vide order dated 18.7.2006 (Ann.A/1). According to the respondents, the applicant(s) and twenty other employees were rightly reverted from the post of Loco Pilot (Shunting) in scale of Rs.4000-6000 to the post of Senior Loco Pilot (Assistant Driver) in the same pay scale on account of being in excess to the available cadre strength. It is further stated that the applicants were directly promoted from the post of Diesel Assistant in scale of Rs.3050-4590 to the post of Loco Pilot (Shunting) in scale of Rs.4000-6000 without touching the post of Senior Assistant Driver in scale of Rs.4000-6000. In para-6 of the reply-affidavit, the respondents have categorically stated that the cadre strength of Loco Pilot (Shunting) was 56, whereas 77 Loco Pilot (Shunting) were working. Hence, 21 employees including the applicants were declared excess and thus reverted back to the post of Senior Loco Pilot (Assistant Driver) in the same pay scale. It is further stated that as per the policy of reservation on promotion for SC/ST employees, for which certain quota was fixed i.e. post based roster, and on that basis 11 employees including respondent No.3 have not been reverted from the post of Loco Pilot (Shunting) to that of Senior Loco Pilot (Assistant Driver). The 11 employees, including respondent No.3, who were SC/ST employees, have been retained on the post of Loco Pilot (Shunting) against reserved points. The applicants are general caste employees and they cannot claim their promotion against roster point of SC/ST employees. The fact that respondents No.3, in all the three applications, were junior to the applicants but were not reverted as they belong to SC/ST category, is admitted in the reply. The respondents have further stated in para-16 of their reply that on

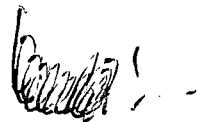
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account of availability of the posts, now the cadre strength of Loco Pilot (Shunting) has been increased from 56 to 63 and, accordingly, vacancies have arisen and against these vacancies five employees, who were reverted vide impugned order dated 18.7.2006 (Ann.A/1), have again been promoted vide order dated 14.11.2006 but the applicants could not be promoted due to interim order of status quo passed by this Tribunal. Vacancies for the applicants have been kept vacant. Copy of the said order dated 14.11.2006 has been placed on record as Ann.R/2.

5. The applicants have not filed any rejoinder to the reply filed by the respondents. Thus, in view of the stand taken by the respondents in the reply to the effect that applicants were reverted as they were promoted in excess of the cadre strength, we see no infirmity in the impugned order passed by the respondents. Since the vacancies are now available, the respondents are directed to promote the applicants against the available vacancies of Loco Pilot (Shunting) w.e.f. 14.11.2006.

6. With these observations, the OAs ~~are~~ disposed of. Interim order granted on 25.7.2006 and extended thereafter from time to time shall stand vacated. Nor order as to costs.


(J.P. SHUKLA)
MEMBER (A)


(M.L. CHAUHAN)
MEMBER (J)

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