IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR

This, the 2nd day of November, 2006

CORAM:

HON'BLE MR. M.L.CHAUHAN, MEMBER (JUDL.)

HON'BLE MR. J.P.SHUKLA, MEMBER (ADMV.)

ORIGINAL APPLICATION No. 354/2006
With Misc. Application No.295/2006

Pramad Kumar Chaudhary,
S/o Shri Jiya Lal chaudhary,
resident of c/o Shri Rakesh Jain,
House No.210, Dadwara Gali No.4,
Kota Junction,
presently working as
Goods Guard
C/o Station Manager,
Kota.

.. Applicant

(By Advocate: Shri P.N.Jatti)

VERSUS

1. Union of India through the General Manager, Western Central Railway, Jabalpur.
2. The Divisional Railway Manager, Western Central Railway, Kota Jn. Kota.
3. The Senior Divisional Personnel Officer, Western Central Railway, Kota.

.. Respondents

(By Advocate: Shri Anupam Agarwal)

ORIGINAL APPLICATION No. 353/2006

Abdul Gafoor Khan,
S/o Shri Janab Bhure Khan,
r/o Q.No.100B, Rail Board Old Colony,
Kota Junction,
presently working as
Goods Guard
C/o Station Manager,
Kota.

.. Applicant

(By Advocate: Shri P.N.Jatti)

VERSUS

1. Union of India through the General Manager, Western Central Railway, Jabalpur.
2. The Divisional Railway Manager, Western Central Railway, Kota Jn. Kota.
3. The Senior Divisional Personnel Officer, Western Central Railway, Kota.

.. Respondents

(By Advocate: Shri Anupam Agarwal)

ORIGINAL APPLICATION No.355/2006
With Misc.Application No.296/2006

Hameed Khan,
S/o Shri Janab Barkat Khan,
r/o Railway Station Kaprain,
Bundi,
presently working as
Goods Guard
C/o Station Manager,
Kota.

.. Applicant

(By Advocate: Shri P.N.Jatti)

VERSUS

1. Union of India through the General Manager, Western Central Railway, Jabalpur.
2. The Divisional Railway Manager, Western Central Railway, Kota Jn. Kota.

3. The Senior Divisional Personnel Officer, Western Central Railway, Kota.

.. Respondents

(By Advocate: Shri Anupam Agarwal)

ORIGINAL APPLICATION No. 356/2006
With Misc. Application No.297/2006

Abdul Rafeeq,
S/o Shri Abdul Gafoor,
r/o Surya Nagar,Kota,
presently working as
Goods Guard
C/o Station Manager,
Kota.

.. Applicant

(By Advocate: Shri P.N.Jatti)

VERSUS

1. Union of India through the General Manager, Western Central Railway, Jabalpur.
2. The Divisional Railway Manager, Western Central Railway, Kota Jn. Kota.
3. The Senior Divisional Personnel Officer, Western Central Railway, Kota.

.. Respondents

(By Advocate: Shri Anupam Agarwal)

ORIGINAL APPLICATION No.357/2006
With Misc. Application No.298/2006

Lalta Prasad,
S/o Shri Kahanyaram,
r/o C/o Sunu, Bapu Colony, Kota
presently working as
Goods Guard
C/o Station Manager,
Kota.

.. Applicant

(By Advocate: Shri P.N.Jatti)

VERSUS

1. Union of India through the General Manager, Western Central Railway, Jabalpur.
2. The Divisional Railway Manager, Western Central Railway, Kota Jn. Kota.
3. The Senior Divisional Personnel Officer, Western Central Railway, Kota.

.. Respondents

(By Advocate: Shri Anupam Agarwal)

ORIGINAL APPLICATION No.358/2006
With Misc. Application No.299/2006

Babu Lal Nama,
S/o Shri Nand Lal Nama,
Resident of c/o Gyarsi Mahavar's House,
Bapu Colony, Kota Junction,
presently working as
Goods Guard
C/o Station Manager,
Kota.

.. Applicant

(By Advocate: Shri P.N.Jatti)

VERSUS

1. Union of India through the General Manager, Western Central Railway, Jabalpur.
2. The Divisional Railway Manager, Western Central Railway, Kota Jn. Kota.
3. The Senior Divisional Personnel Officer, Western Central Railway, Kota.

.. Respondents

(By Advocate: Shri Anupam Agarwal)

ORIGINAL APPLICATION No.359/2006
With Misc. Application No.300/2006

Rajendra Singh,
S/o Shri Daryav Singh,
r/o Paras Mahula,
Roopbas, Distt. Bharatpur,
presently working as
Goods Guard
C/o Station Manager,
Kota.

.. Applicant

(By Advocate: Shri P.N.Jatti)

VERSUS

1. Union of India through the General Manager, Western Central Railway, Jabalpur.
2. The Divisional Railway Manager, Western Central Railway, Kota Jn. Kota.
3. The Senior Divisional Personnel Officer, Western Central Railway, Kota.

.. Respondents

(By Advocate: Shri Anupam Agarwal)

ORIGINAL APPLICATION No.360/2006
With Misc. Application No.301/2006

Ajit Singh Solanki,
S/o Shri Samudar Singh,
resident of c/o Vishnu Dutt Gupta,
Near Church,
Kota Junction,
presently working as
Goods Guard
C/o Station Manager,
Kota.

.. Applicant

(By Advocate: Shri P.N.Jatti)

VERSUS

1. Union of India through the General Manager, Western Central Railway, Jabalpur.
2. The Divisional Railway Manager, Western Central Railway, Kota Jn. Kota.
3. The Senior Divisional Personnel Officer, Western Central Railway, Kota.

.. Respondents

(By Advocate: Shri Anupam Agarwal)

ORIGINAL APPLICATION No.361/2006
With Misc. Application No.302/2006

Subbal,
S/o Shri Banasharidi,
resident of C/o Yogendra Arya,
House No.212, Dadwara Gali No.4,
Kota Junction,
presently working as
Goods Guard
C/o Station Manager,
Kota.

.. Applicant

(By Advocate: Shri P.N.Jatti)

VERSUS

1. Union of India through the General Manager, Western Central Railway, Jabalpur.
2. The Divisional Railway Manager, Western Central Railway, Kota Jn. Kota.
3. The Senior Divisional Personnel Officer, Western Central Railway, Kota.

.. Respondents

(By Advocate: Shri Anupam Agarwal)

ORIGINAL APPLICATION No.362/2006
With Misc. Application No.303/2006

Rajesh Kumar Meena,
S/o Shri Chaju Ram Meena,
r/o House No.76, Shivaji Colony,
Road No.6,
Kota Junction,
presently working as
Goods Guard
C/o Station Manager,
Kota.

.. Applicant

(By Advocate: Shri P.N.Jatti)

VERSUS

1. Union of India through the General Manager, Western Central Railway, Jabalpur.
2. The Divisional Railway Manager, Western Central Railway, Kota Jn. Kota.
3. The Senior Divisional Personnel Officer, Western Central Railway, Kota.

.. Respondents

(By Advocate: Shri Anupam Agarwal)

ORIGINAL APPLICATION No.363/2006
With Misc. Application No.304/2006

Ramesh Singh,
S/o Shri Kalyan Singh,
r/o Lumhadi Balapura,
Near Hanumanji Ka Mandir, Kota
presently working as
Goods Guard
C/o Station Manager,
Kota.

.. Applicant

(By Advocate: Shri P.N.Jatti)

VERSUS

1. Union of India through the General Manager, Western Central Railway, Jabalpur.
2. The Divisional Railway Manager, Western Central Railway, Kota Jn. Kota.
3. The Senior Divisional Personnel Officer, Western Central Railway, Kota.

.. Respondents

(By Advocate: Shri Anupam Agarwal)

ORIGINAL APPLICATION No.364/2006
Misc. Application No.305/2006

Mukesh Kumar Yadav,
S/o late Shri Anurag Yadav,
r/o Marshal Colony (Indira Colony),
Mala Road, Kota Junction,
presently working as
Goods Guard

C/o Station Manager,
Kota.

.. Applicant

(By Advocate: Shri P.N.Jatti)

VERSUS

1. Union of India through the General Manager, Western Central Railway, Jabalpur.
2. The Divisional Railway Manager, Western Central Railway, Kota Jn. Kota.
3. The Senior Divisional Personnel Officer, Western Central Railway, Kota.

.. Respondents

(By Advocate: Shri Anupam Agarwal)

O R D E R (ORAL)

By this common order, we propose to dispose of aforesaid cases as the controversies involved in these cases are similar.

2. Briefly stated, facts of the case are that the applicants in these OAs were Switchman who were subsequently declared surplus. In sum and substance, the case of the applicants is that on account of being declared surplus as Switchman they were deployed as Goods Guard on which post they are working from different dates in the year 2004/2005. In fact the applicants have pleaded that they were promoted on the post of Goods Guard and they were issued the order to work on the post of Goods Guard. Since the applicants were having apprehension that they will be reverted to

the post of Switchman, they have filed these OAs thereby praying that suitable writ may be issued thereby restraining the respondents from reverting the applicants and they may also be directed to draw the pay and allowances of the applicants from the date they have been working on the post of Guard.

3. This Tribunal while issuing notices to the respondents directed the respondents to maintain status quo qua the applicants till the next date of hearing.

4. The respondents have filed reply. In the reply, the respondents have categorically stated that the applicants were never promoted as alleged by them. In fact as per Railway Board letter dated 5.6.98 the post of Guards scale Rs. 4500-7000 are filled 60% by general selection, 15% by Limited Departmental Competitive Examination and 25% by Railway Recruitment Board as provided therein. It is further stated that the applicants were never appointed as Guard through these modes, rather their names find mention in the panel for selection to the post of Goods Guard and they had participated in the same. It is also stated that the applicants are still working as substantive Switchman in the scale of Rs. 4000-6000. It is further stated that the applicants were initially appointed in Group-D category and presently working as substantive

Switchman in the scale of Rs. 4000-6000. The respondents have further stated that since the applicants were never promoted, there cannot be any intention of reversion. The respondents have further stated that the allegation of the applicants that there are financial loss to the applicants cannot be accepted as the post of Goods Guard is in the scale of Rs. 4500-7000, while the applicants were working in the scale of Rs. 4000-6000. Since they were never promoted nor allowed the pay of the Goods Guard, as such, submission of the applicants that they are entitled to the pay of the Goods Guard cannot be accepted. The respondents have however admitted that due to introduction of panel interlocking system the posts of Switchman were abolished leading to declaring them surplus. However, in view of non conduct of selection due to operation of stay in OA No.107/06 dated 17.3.06 they cannot be absorbed. The respondents have also stated that the surplus Switchman might have been utilized as Guard due to non-absorption, but it does not give any benefit to the applicants of higher scale or to be absorbed against the post of Goods Guard, which is in the higher scale. It is on these grounds the respondents have opposed the claim of the applicants.

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

6. From the facts as stated above, it is clear that the applicants are substantive holder of the post of Switchman in the grade of Rs. 4000-6000. It is also clear from the facts, as stated above, that the posts of Switchman was declared surplus. Thus, on account of the fact that the post of Switchman has been abolished and the applicants have been declared surplus, they are entitled to be absorbed only in the same or equivalent grade, as per the policy formulated by the Railway Board, which is in vogue. Admittedly, such persons cannot claim alternative employment on a promotional post/higher grade. Thus, the applicants have got no legal right to be absorbed against the higher post of Goods Guard which post has to be filled in accordance with the Railway Board letter dated 5.6.98 by way of selection in the manner contemplated hereinabove. The applicants have failed to produce any promotion order whereby they were promoted to the post of Goods Guard. On the contrary, the respondents have categorically stated that they were never appointed as Goods Guard and promotion/appointment to the aforesaid post has to be made in accordance with the Railway Board letter dated 5.6.98 by conducting selection test which could not be done due to operation of the stay granted by this Tribunal in OA No. 107/2006. Thus, we are of the view that the applicants are not entitled to any relief that they have been promoted as Goods Guard and as such entitled to the salary of that post.

However, the fact remains that the applicants who were the substantive holder of the posts of Switchman were declared surplus and by way of various orders, which have been placed on record, their services have been utilized as Goods Guard due to their non-absorption. This fact has also been admitted by the respondents in the reply. The selection process for the post of Goods Guard is under process. In view of the facts as stated above, we are of the view that ends of justice will be met if status-quo qua the applicants is maintained till the posts of Goods Guard to which post the applicants have also participated and selection process is underway, is completed and the selected persons are appointed against the said posts.

7. Accordingly, the present OAs are disposed of with direction to the respondents to maintain status quo qua the applicants till the posts of Goods Guard are filled in from rankers quota as per the Railway Board letter dated 5.6.98 or till the applicants are re-deployed in the same or equal grade on account of abolition of the post of Switchman, whichever, is earlier.

8. With these observations, the OAs are disposed of with no order as to costs.

9. In view of the order passed in the OAs, no order is required to be passed in Misc. Applications for vacation of interim order, which shall also stand disposed of accordingly.

(U.P.SHUKLA)
Administrative Member

(M.L.CHAUHAN)
Judicial Member

R/