

**THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR
ORDER SHEET**

APPLICATION NO.: _____

Applicant(s)

Respondent (s)

Advocate for Applicant (s)

Advocate for Respondent (s)

NOTES OF THE REGISTRY

ORDERS OF THE TRIBUNAL

30.07.2008.

OA No. 279/2008 with MA 241/2008 and 242/2008

Mr. C.B. Sharma, Counsel for applicant (OA 279/2008 & MA 241/2008)

Mr. Nand Kishore, Counsel for applicant in MA 242/2008

MA 241/2008

The applicants have filed this MA for filing joint OA. In view of the averments made in the MA, the same is allowed. The applicants are permitted to file joint OA.

The MA shall stand disposed of accordingly.

OA 279/2008

For the reasons dictated separately, the OA is disposed of.

MA 242/2008

Since the OA is disposed of, no order is required to be passed in this MA, which is accordingly disposed of.


(B.L. KHATRID)
MEMBER (A)


(M.L. CHAUHAN)
MEMBER (J)

AHQ

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH

Jaipur, this the 30th day of July, 2008

ORIGINATION APPLICATION NO. 279/2008

CORAM:

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

1. Durga Lal Sen son of Shri Ratan Lal aged about 44 years, resident of 208 A Quarter Type III, Railway Workshop Colony, Kota Junction and presenting working as Office Superintendent Grade II, Wheel Shop (Wagon Repair Shop) under Chief Works Manager, West Central Railway, Kota Division, Kota.
2. Ghan Shyam Sharma son of Shri Balu Ram Sharma, aged about 57 years, resident of 727 A, Old Railway Colony, Hospital Road, Kota Junction and presently working as Office Superintendent Grade II, Establishment IV, under Chief Works Manager (Wagon Repair Shop) West Central Railway, Kota Division, Kota.
3. Narayan R son of Shri Ram Krishnan, aged about 59 years, resident of 220/B, Quarter Type II, Railway Workshop Colony, Kota Junction and presently working as Office Superintendent Grade II, Computer Cell, under Chief Works Manager (Wagon Repair Shop) West Central Railway, Kota.
4. Lukman Ahmed Ansari son of Shri Karim Ullaha, aged about 49 years, resident of 22, Pratap Colony, Gali No. 3, Rangpur Road Kota Junction and presently working as Office Superintendent Grade II, Smithy Shop (Wagon Repair Shop) under Chief Works Manager, West Central Railway, Kota Division, Kota.
5. R.S. Khandelwal son of Shri R.L. Khandelwal, aged about 44 years, resident of C/o H.K. Saxena, Opposite Petrol Pump, Station Road, Kota Junction and presently working as Office Superintendent Grade II, Box Shop (Wagon Repair Shop) under Chief Works Manager, West Central Railway, Kota Division, Kota.
6. Mohammed Azim son of Shri Mohd. Salim, aged about 47 years, resident of 247 D, Quarter Type III, Railway Workshop Colony, Kota Junction and presently working as Office Superintendent Grade II, General Section,

under Chief Works Manager (Wagon Repair Shop), West Central Railway, Kota Division, Kota.

7. Ramesh Chand Chaurasia son of Shri Jagannath Chaurasia, aged about 47 years, resident of Poonam Colony, Gali No. 4, Kota Junction and presently working as Office Superintendent Grade II, Establishment Section 1, under Chief Works Manager (Wagon Repair Shop) West Central Railway, Kota Division, Kota.
8. Brijendra Sharma son of Shri Mahendra Sharma aged about 57 years, resident of Railway Electrification Colony near Railway Hospital, Kota Junction and presently working as Office Superintendent Grade II, Body Repair Shop (Wagon Repair Shop) under Chief Works Manager, West Central Railway, Kota Division, Kota.
9. Om Prakash D. son of Shri D. Singh aged about 62 years, resident of Chopra Farm, Gali No. 3, Kota Junction and retired from the post of Office Superintendent Grade II, on 30.11.2006 from the office of Chief Works Manager (Wagon Repair Shop) West Central Railway, Kota Division, Kota.

....APPLICANTS

(By Advocate: Mr C.B. Sharma)

VERSUS

1. Union of India through the General Manager, West Central Zone, West Central Railway, Jabalpur (M.P.)
2. Chief Works Manager, (Wagon Repair Workshop), West Central Railway, Kota Division, Kota.

.....RESPONDENTS

(By Advocate: -----)

ORDER (ORAL)

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

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- "(i) That the entire record relating to the case be called for and after perusing the same the respondents be directed not to apply reservation in up-gradation/restructuring by quashing letter dated 17.07.2008 (Annexure A/1) with all consequential benefits.
- (ii) That the respondents be further directed to hold good the penal dated 15.06.2004 (Annexure A/4) and further promotion order dated 28.06.2004 (Annexure A/5) and further order dated 29.07.2007 at Annexure A/6 and not to disturb the applicants from present position of posts and pay and allowances.
- (iii) Any other order, direction or relief may be passed in favour of the applicants, which may be deemed fit, just and proper under the facts and circumstances of the case.
- (iv) That the costs of this application may be awarded.


2. Briefly stated facts of the case so far as it relates to the decision of this case are that the applicants were included in the panel to the grade of Rs.5500-9000/- vide order dated 15.06.2004 (Annexure A/4). Subsequently the applicants and other persons were promoted in the aforesaid grade vide order dated 28.06.2004 (Annexure A/5). The grievance of the applicants in this case is that now vide impugned order dated 17.07.2008 (Annexure A/1), the respondents are going to revert the applicants on the ground that reservation could have been made applicable while granting promotion in the year 2004. According to the learned counsel for the applicant, there was no basis to pass such an order in as much as the persons who were promoted in the year 2004, there were certain persons who were working on ad hoc basis and such promotion was granted by applying reservation.

3. Be that as it may, this is a matter to be decided by the Appropriate Authority. However, we are of the firm view that impugned order dated 17.07.2008 has been passed on the representation made by some officials without hearing the applicants who are going to be affected by this order. The law on the point is well settled that if the right of the persons is going to be affected, such an order can only be passed after giving show cause notice to the affected person but in the present case no such procedure was adopted by the respondents.

4. Accordingly, the impugned order dated 17.07.2008 (Annexure A/1) is quashed. It will be open for the respondents to pass fresh order after issuing the show cause notice to the applicant. It is made clear ^{that} we have not given any finding on the merit of this OA, as the impugned order is quashed solely on the ground that before passing the impugned order, the applicants were not given any opportunity to put their case.

5. With these observations, the OA is disposed of at admission stage.


(B.L. KHATRI)
MEMBER (A)


(M.L. CHAUHAN)
MEMBER (J)

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