

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH**

Jaipur, this the 25th day of November, 2011

Original Application No. 513/2008

CORAM:

HON'BLE MR. JUSTICE K.S.RATHORE, MEMBER (JUDL.)
HON'BLE MR. ANIL KUMAR, MEMBER (ADMV.)

1. Subhash Chand Chaudhary
s/o Shri Ram Kumar
r/o Pariwahan Nagar,
Khatipura, Jaipur
at present working on the post of
TTI/TNCR, Office of DCTI, Jaipur.
2. Suresh Chand Yadav
s/o Shri Kishori Lal Yadav
r/o C-14, Ganpati Nagar
Railway Colony, Jaipur
at present working on the post of
TTI/TNCR, office of DCTI, Jaipur.

.. Applicants

(By Advocate: Shri Ashok Joshi)

Versus



- Union of India
through its General Manager,
North Western Railway,
Headquarters office,
Opposite Railway Hospital,
Jaipur.
2. Divisional Railway Manager,
Jaipur Division,
Jaipur.

3. Shri Sedu Ram Meena,
s/o Shri Badri Narain,
TTI/TNCR, Office of CTI Sleeper,
Jaipur Railway Station,
Jaipur

.. Respondents

(By Advocate: Shri V.S. Gurjar)

ORDER (ORAL)

The short controversy involved in this OA is that applicants while working on the post of HTTE/HTC, their cases were considered for promotion under the restructuring to the post of TTI/TNCR and on being found suitable they were empanelled and consequently vide order dated 25.6.2008 were promoted on the post of TTI/TNCR w.e.f. 1.11.2003.

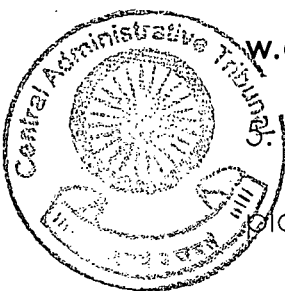
2. The Hon'ble Supreme Court while deciding the case in Union of India vs. Pushpa Rani and ors. reported at (2008) 9 SCC 242 held that reservation can be applied even in the upgradation. Pursuant to the judgment of the Supreme Court, the Railway Board vide order dated 7.8.2008 directed the concerned railways to revised the orders by providing reservation to the members of reserved category in the upgradation. The official respondents while acting upon the Railway Board letter/instructions revised the office order dated



25.6.2008 and both the applicants were ordered to be treated as TTI/TNCR w.e.f. 25.6.2008 instead of 1.11.2003.

3. Being aggrieved by said action of the respondents vide impugned order dated 29.9.2008 (Ann.A/1), the applicants filed the present OA as in view of the direction issued by the Supreme Court in the case of Pushpa Rani (supra), the applicants were treated as TTI/TNCR w.e.f. 25.6.2008 instead of 1.11.2003.

4. The main bone of contention of the applicants is that cadre strength of the post of TTI/TNCR was 49 regular and 1 supernumerary posts. However, after restructuring i.e. after 1.11.2003, the cadre strength increased to 74 regular and 3 supernumerary posts, thus became total 77 posts and 77 (sic) regular posts and 3 supernumerary posts are available in the cadre of TTI/TNCR. As per the roster issued by the DOPT, there cannot be more than 11 SC and 5 ST posts in the cadre and if the cadre strength and the roster is rightly determined, the applicants could have been promoted on the post of TTI/TNCR w.e.f. 1.11.2003.



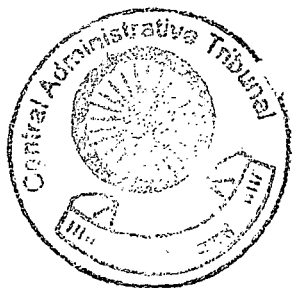
The learned counsel appearing for the applicants placed reliance on the judgment rendered by the Supreme Court in the case of Bharat Sanchar Nigam Limited vs. Ra.Santhakumari Velusamy and ors., (Civil Appeal Nos. 5286-87

of 2006 decided on 6.9.2011) wherein the Hon'ble Supreme court held as under:-

"To sum up, the BCR scheme was an upgradation scheme to give relief against stagnation. It did not involve creation of any new posts. It did not involve advancement to a higher post. It did not involve any process of selection for conferment of the benefit of higher pay scale. The upgradation was given to the senior most 10% of BCR scale employees in Grade III strictly as per seniority. BCR scheme as per circular dated 16.10.1990 was thus a scheme for upgradation simplicitor without involving any creation of additional posts or any process of selection for extending the benefit. Such a scheme of upgradation did not invite the rules of reservation."

6. The applicants also submit that respondents have included the supernumerary posts in the cadre strength of 74 and if these posts are not included in the aforesaid strength, the applicants could have been able to get the promotion on the post of TTI/TNCR w.e.f. 1.11.2003.

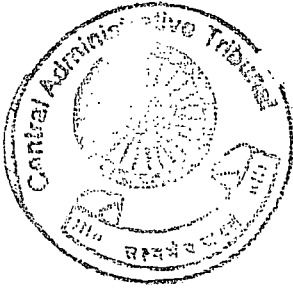
7. On the contrary, the respondents have categorically submitted in para-IV of their reply that before upgradation, the cadre of TTI/TNCR in the scale of Rs. 5500-9000 consisted of 49 posts and after upgradation w.e.f. 1.11.2003 the cadre consisted of 74 posts. The supernumerary posts are not included and shown in the cadre. Further submits that keeping



in view the post based issued by the Railway Board, in the cadre of 74 of TTI/TNCR, 11 posts were to be filled up by Schedules Caste category and 6 posts were to be filled up by the Scheduled Tribe category, whereas only 1 employee from SC category and 2 employees from ST category were working. Thus, as per post based roster, there was a deficiency of 10 against SC category and 4 against ST category, which were to be filled up. It is further submitted that employees who have been working against the supernumerary posts, their promotions have also been made against supernumerary posts and 2 posts for supports quota were sanctioned by the headquarters office as supernumerary posts and one post in sports quota was already sanctioned apart from the cadre of 74 posts. Therefore, the plea taken by the applicants that the respondents have included the supernumerary posts in the strength of 74 posts is factually incorrect, as per the averments made on behalf of the respondents. The deficiency of 10 posts against SC category and 4 against ST category is to be filled up within the cadre strength of 74 posts and therefore, the applicants were rightly treated as TTI/TNCR w.e.f. 25.6.2008.

8. Having heard the rival submissions of the respective parties and upon perusal of the material available on record, we find no illegality in the order impugned dated 29.9.2008, which required no interference. Consequently, the OA fails





being devoid of merit and the same is hereby dismissed with
no order as to costs.

(ANIL KUMAR)
Admv. Member

R/

(JUSTICE K.S.RATHORE)
Judl. Member

Certified That This is a True and
Accurate Copy of The Document/Order
As In The Case File No.
And That All The Matter Appearing
Therein Have Been Legibly and Faith-
fully Copied with no Modification.

Copying Clerk Section Officer(Judicial)
C.A.T. Jaipur Bench