

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH, JAIPUR.

ORIGINAL APPLICATION No. 206/2012

Jaipur, the 20th September, 2013

CORAM :

HON'BLE MR. ANIL KUMAR, ADMINISTRATIVE MEMBER

HON'BLE MR. V. AJAY KUMAR, JUDICIAL MEMBER

1. Islamuddin son of Late Shri Nizamuddin, aged about 47 years, resident of Plot No. 6/14, Abbasi House, Kishanpura, Somalpur Road, Ajmer and presently working as Helper Khallasi, Ticket No. 96935, under Deputy Chief Electrical Engineer, Railway Power House, North Western Railway, Nagra, Ajmer.
2. Desh Raj son of Shri Mangal Prasad, aged about 50 years, resident of Railway Quarter No. 1994-B, Ramganj, Ajmer and presently working as Helper Khallasi, Ticket No. 96994, under Deputy Chief Electrical Engineer, Railway Power House, North Western Railway, Nagra, Ajmer.
3. Arun Vishwa son of Late Shri Daya Shankar ji, aged about 57 years, resident of House NO. 952/32, Near Bandh Kua, Alwar Gate, Ajmer and presently working as Helper Khallasi (Material Chaser), Ticket No. 96532, under Deputy Chief Electrical Engineer, Railway Power House, North Western Railway, Nagra, Ajmer.
4. Albret Petrik son of Late Shri S. Petrik, aged about 36 years, resident of House No. 1305/35, Prakash Road, Ashok Nagar, Nagra Bhatta, Ajmer and presently working as Helper Khallasi, Ticket No. 91042, under Deputy Chief Electrical Engineer, Railway Power House, North Western Railway, Nagra, Ajmer.
5. Bhag Chand son of Shri Birda aged about 43 years, resident of Village & Post Ladpura, via Gangawana, District Ajmer and presently working as Helper Khallasi, Ticket No. 94511, under Deputy Chief Electrical Engineer, Railway Power House, North Western Railway, Nagra, Ajmer.

... Applicants

(By Advocate: Mr. C.B. Sharma)

Versus

1. Union of India through General Manager, North Western Zone, North Western Railway, Near Jawahar Circle, Jagatpura, Jaipur.
2. Chief Works Engineer, North Western Railway, Ajmer Division, Ajmer.
3. Deputy Chief Electrical Engineer, Railway Power House, North Western Railway, Nagra, Ajmer.

Anil Kumar

... Respondents

(By Advocate: Mr. Anupam Agarwal)

ORDER

PER HON'BLE MR. ANIL KUMAR, ADMINISTRATIVE MEMBER

The brief facts of the case, as stated by the learned counsel for the applicants, are that the applicants are substantive employees of the respondent department. Presently they are holding the post of Helper Khallasi under Deputy Electrical Engineer, Railway Power House, North Western Railway, Nagra, Ajmer. The applicants belong to RAC Department.

2. As per seniority, the applicants are eligible for promotion to the post of Technician Grade III in the pay band of Rs.5200-20200 + Grade Pay Rs.1900/-

3. The respondent no. 3 issued notification dated 25.06.2011 for 12 vacancies of OC category to the cadre of Technician Grade III. The applicants appeared in the trade test. Respondent no.3 vide order dated 04.10.2011 declared the result and 12 official including the applicants were declared pass. However, only 6 officials were allowed promotion by the same order and the applicants were left over without any base.

4., That respondent no.3 informed the applicants vide letter dated 07.02.2012 that due to non availability of vacancies and the multi-skilling has been approved, therefore future vacancies would be filled in according to the multi-skilling.

Anil Kumar

5. The learned counsel for the applicant submitted that the multi skilling has been approved with effect from 27.09.2011 whereas the selection of the applicant was approved on 25.06.2011 i.e. prior to the introduction of the multi skilling. Therefore, the provisions of multi skilling cannot be applicable in the case of the applicants. He further submitted that the respondents have not been able to clarify that how the 12 vacancies which were notified were reduced to 6 vacancies. The applicants without any base were left over and, therefore, the applicants be allowed promotion on the basis of selection made on 25.06.2011 (Annexure A/2). In support of his averments, the learned counsel for the applicant referred to the decision of this Tribunal in OA No. 545/2003 decided on 18.04.2005 [**Rajendra Singh vs. Union of India & Others**]

6. On the contrary, the learned counsel for the respondents submitted that there been 6 vacancies, therefore, out of 12 vacancies, only 6 employees were promoted in order of seniority.

7. That after introduction of multi skilling vacancies falling after 01.11.2011 would be filled in order of promotion procedure/criteria. Since prior to introduction of the multi skilling as per post based roster, there were no vacancies under 50% ranker quota, therefore, the applicants were not promoted. 6 officials were promoted as there were only 6 vacancies. No junior to the applicants had been promoted by the respondents.

Anil Kumar

8. With regard to the merger of cadre and introduction of the multi skilling, he submitted that it is a policy decision and it has been taken by the competent authority. Prior to the introduction of the multi skilling, there were no vacancies available for promotion of the applicant under the ranker quota. Subsequently to it, the applicant are not under the zone of consideration of promotion as yet. Therefore, the OA has no merit and it should be dismissed with costs.

9. The respondents were directed by this Tribunal vide order dated 03.07.2013 to produce a copy of the notification by which the examination for Technician Grade III was held and notification by which 14 posts were proposed to be filled up vide order dated 25.06.2011 (Annexure A/2) but subsequently were reduced to 6. In compliance of these directions, the respondents have filed Additional reply. In this additional reply, they have submitted that because of change in the vacancy position due to the order dated 13.09.2011, the assessment was reduced to 6 posts which were filled up by order dated 04.10.2011 (Annexure A/3). They have annexed a chart of the calculation of the 14 vacancies at Annexure R/1 and they have also placed on record office order No. E/100/11 dated 13.09.2011 vide which the result of the successful candidates for the post of Electrical Fitter RAC Grade II in the pay band of Rs.5200-20200 + Grade Pay Rs.2400/- has been given. From the perusal of the chart of calculation of vacancies at Annexure R/1, it is clear that under 50% ranker quota, there were

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4 surplus employees already working. The respondents have calculated an anticipated vacancy in which one vacancy has been shown due to retirement. 17 vacancies have been shown because of the anticipated promotion to the higher grade. Thus, they have anticipated 18 vacancies. Since there were 4 surplus employees already working under the 50% ranker quota, therefore, 14 vacancies were calculated by the respondents. Out of this, 12 vacancies were for OC.

10. The learned counsel for the respondents further submitted that due to promotion from Grade III to Grade II, 15 employees were promoted as Technician Grade II vide order dated 13.09.2011 (Annexure R/2). Out of the 15 employees so promoted, 10 belong to promotion/ranker quota and since there were 4 surplus employees already working of the ranker quota in the cadre of Technician Grade III, therefore, only 6 vacancies became available in the cadre of Technician Graded III. Thus after due approval of the competent authority, 6 employees were promoted vide order dated 04.10.2011. He has clearly mentioned in the additional reply that the reduction in vacancy position has no co-relation with the multi-skilling.

11. However, the learned counsel for the respondents could not clarify as to why one vacancy which was calculated due to retirement could not filled up by the respondents.

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12. Heard the learned counsel for the parties, perused the documents on record and the case law referred to by the learned counsel for the applicant. It is not disputed that the applicants have qualified the selection for the post of Technician Grade III vide order dated 25.06.2011 (Annexure A/2). However, from this list of 12 successful candidates, only 6 employees have been given appointment to Technician Grade III. It has also not been disputed by the learned counsel for the applicant that 6 candidates who have been approved for promotion are senior to the applicants. Thus no junior to the applicants have been promoted.

13. The short controversy is about the vacancy position. It is not disputed that 14 vacancies were advertised vide Annexure A/2 but only 6 employees were promoted to the post of Technician Grade III.

14. We have carefully perused Annexure R/1 vide which calculation of the vacancies were made. From the perusal of this document, it is clear that 17 vacancies were anticipated because of promotion to the higher grade. Thus these 17 vacancies were not clear vacancies. Out of these 17 vacancies, only 15 persons qualified for promotion to Electrical Fitter RAC Grade II vide letter dated 13.09.2011 (Annexure R/2). Therefore, at best there could have been 15 vacancies against 17 anticipated vacancies.

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15. From the perusal of the calculation sheet of Annexure R/1, it is clear that cadre of RAC Grade III in the pay band of Rs.5200-20200 + Grade Pay Rs.1900/- is 35, out of which ranker promotion quota is 50%, which is 18 and this figure is not disputed by the learned counsel for the applicant. It means that there are 17 employees from the other quota. According to the learned counsel for the respondents, out of the 15 candidates selected in the Electrical Fitter Grade II, 10 belong to ranker quota and 5 belong to the direct quota. Therefore, only 10 vacancies were available in RAC Grade III. Since there were already 4 surplus working in ranker quota, therefore, vacancies available for promotion in RAC Grade III for ranker quota were 6 and these 6 vacancies were filled up. However, learned counsel for the respondents agreed that he has no information with regard to 1 vacancy left out due to retirement (Annexure R/1). In view of the position explained above, we are of the view that there were only 6 vacancies as on 04.10.2011 when the panel for RAC Grade III was issued (Annexure A/3).

16. Therefore, we do not find any infirmity/illegality in the action of the respondents to fill only 6 posts vide order dated 04.10.2011 (Annexure A/3).

17. The learned counsel for the respondents has categorically stated in the additional reply that filling up of these 6 vacancies have no co-relation with the multi-skilling. We are fully in agreement with the averments made by the learned counsel for

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the respondents and, therefore, in our opinion, the order dated 18.04.2005 passed by this Tribunal in OA No. 545/2003 in the case of **Rajendra Singh vs. Union of India & Others** (supra) is not applicable under the facts & circumstances of the present case.

18. Since one post in the RAC Grade III in the pay band of Rs.5200-20200 + Grade Pay Rs.1900/- has not been filled up, which has been shown vacant due to retirement, the respondents are directed to fill this post from the panel, which was approved vide order dated 25.06.2011 (Annexure A/2) in accordance with the provisions of law.

19. With these observations, the OA is disposed of with no order as to costs.

V-2 - Kumar
(V. Ajay Kumar)
Member (J)

AHQ

Anil Kumar
(Anil Kumar)
Member (A)