

**Central Administrative Tribunal
Principal Bench, New Delhi**

RA No. 17/2013
In
OA No.1642/2008

New Delhi, this the 17th day of August, 2016

Hon'ble Mr. P.K. Basu, Member (A)
Hon'ble Dr. Raj Vir Sharma, Member (J)

Union of India through

1. General Manager,
Northern Railway,
Baroda House,
New Delhi.
2. Divisional Railway Manager,
Northern Railway, Delhi Division
State Entry Road, New Delhi.
3. Sr. Divisional Personnel Officer,
Northern Railway,
State Entry Road, New Delhi
..... Review Applicants/Respondents in OA

(By advocate: Mr.VSR Krishna & Mr.Shailendra Tiwary)

Versus

1. Shri Virender Kumar Yadav
Token No.873
S/o Shri Nathu Ram
R/o F-2 /730, Sangam Vihar,
New Delhi-110610.
2. Shri Kamal Singh
Token NO.610
S/o Sh. Sultan Singh
R/o Kailash Nagar,
H No. 1004, Palwal, Faridabad.
..... Respondents/ Applicants in OA

(By Advocate: Mr.A.K.Bhagat)

ORDER (ORAL)

Hon'ble Mr. P.K. Basu, Member (A)

Heard the learned counsel on the Review Application, which has been filed against the order dated 10.02.2009 in OA No. 1642/2008, where we have passed the following directions:-

" In such on event, the present OA, for the foregoing reasons is allowed. Respondents are directed to extend the applicants the benefits at par with applicants in OA No.39/2004 decided on 21.04.2007 as well as OA No. 1725/2007 and OA No.2083/2007 (supra) for promotion to the Technician Grade III with all consequential benefits which had been given to the persons appeared in the selection, with appears etc. This shall be done within a period of three months from the date of receipt of a copy of this order. No costs."

2. Learned counsel for the review applicants states that there is an error in granting benefits in the order because the Tribunal did not consider whether sufficient posts are available or not for implementation of the order in OA No. 39/2004.

3. Learned counsel further points out that similarly placed persons have filed the similar OA NO. 2864/2011, which was disposed of on 02.08.2016 with the following directions:-

"5. Learned counsel for the respondents states that there are not enough posts to accommodate the applicants. It is made clear that in that case, they will strictly go by the seniority list and will revert the junior most persons. The time frame fixed for compliance of our order is 90 days from the date of receipt of a certified copy of this order. No order as to costs."

4. It is argued that in case implementation of the order passed in OA No.39/2004 is not without taking into account the seniority and available of posts it would not be just and fare action of the respondents.

3. Learned counsel further points out that similarly placed persons have filed a similar OA NO. 2864/2011, which was disposed of on 02.08.2016 with the following directions:-

"5. Learned counsel for the respondents states that there are not enough posts to accommodate the applicants. It is made clear that in that case, they will strictly go by the seniority list and will revert the junior most persons. The time frame fixed for compliance of our order is 90 days from the date of receipt of a certified copy of this order. No order as to costs."

4. It is argued that in case implementation of the order passed in OA No.39/2004 is implemented without taking into account the seniority and availability of posts, it would not be just and fair action.

5. Learned counsel for the respondents in RA/applicants in OA states that once the Tribunal has passed order dated 11.03.2008 the respondents/ applicants in RA have to implement that order and since there is no error apparent on the face of the record, the RA be dismissed.

6. We have heard and considered the arguments of both sides, we are of the view that the implementation of the order of OA no.39/2004 and OA No.1725/2007 will automatically involve the vacancy and seniority position. We, therefore, allow the RA and dispose of the matter with a direction to the respondents that they will strictly go by the seniority list and vacancy position while granting the promotion as has been directed in OA No. 2864/2011. Order dated 10.02.2009 stands modified accordingly. No costs.

(Raj Vir Sharma)
Member (J)

(P.K. Basu)
Member A)

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