

**CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI**

O.A. No. 1608/2012

Reserved on : 05.05.2016  
Pronounced on : 17.05.2016

**HON'BLE MR. P.K. BASU, MEMBER (A)  
HON'BLE DR. BRAHM AVTAR AGRAWAL, MEMBER (J)**

1. Arvind Mohan Saxena,  
S/o Shri Chandra Prakash Saxena,  
Sr. Booking Clerk,  
North Eastern Railway,  
Kasganj.
2. Rakesh Babu,  
S/o Shri Ram Chandra Singh,  
DCI, Izatnagar,  
Rly. Colony Kushi Ramnagar, UP.
3. Rajesh Singh,  
S/o Shri C.K. Singh,  
DCI, PBE,  
R/o T/12A, Railway Colony,  
Pilibhit.
4. Chandra Prakash Sahu,  
S/o Late Shri Umrai,  
Sr. BC/PBE,  
E/27C, Railway Engg. Colony,  
Pilibhit-262001. .. Applicants

(By Advocate: Mrs. Meenu Mainee)

Versus

Union of India through :

1. Secretary,  
Railway Board,  
Rail Bhawan,  
New Delhi.

2. General Manager,  
Northern Eastern Railway,  
Gorakhpur (UP).
3. Divisional Railway Manager,  
Northern Eastern Railway,  
Izatnagar. .. Respondents

(By Advocate: None)

### **ORDER**

#### **By Hon'ble Mr. P.K. Basu**

This is a very old matter pertaining to the year 2012. Though the learned counsel for the applicant was present on the date of hearing, no one represented the respondents. We have, therefore, passed this order based on the pleadings of both the parties on record and after hearing the learned counsel for the applicant.

2. The applicants are Senior Booking Clerks/Sr. Commercial Clerks. The respondents had initiated a selection process in September, 2010 for the post of Goods Guards against 60% departmental quota and had invited applications from Ticket Collectors/Booking Clerks/Sr. Booking Clerks/Train Clerks/Cabinmen etc.

3. On 11.08.2011, Railway Board issued a letter regarding consideration of staff in erstwhile Group 'D' category since upgraded as Group 'C' for promotion to the post of Goods Guard in Grade Pay of Rs.2800/-. It was clarified through this letter that

upgradation of erstwhile Group 'D' does not automatically make them eligible for promotion against any of the category in case they already were not eligible for the same in terms of the extant instructions. The respondents had denied this promotional avenue under the 60% quota to Sr. Commercial Clerks, who were also in the Grade Pay of Rs.2800/-, for recruitment as Goods Guards. It is clear from paras 4.3 and 4.4 of the reply filed by the respondents, the provision of the aforesaid Railway Board's letter dated 11.08.2011 is as follows:

"... the staff in the grade lower than the Grade for which selection is being held is eligible to appear in the selection..."

4. The learned counsel for the applicant clarified and this is also accepted by the respondents in their reply, that earlier to circular dated 11.08.2011, Sr. Commercial Clerks were eligible to appear under 60% quota written examination meant for recruitment to the post of Goods Guards. He further states that the Indian Railways Establishment Manual (IREM) had provided for Senior Commercial Clerks to be included and, therefore, the statutory provision cannot be taken away through a letter, i.e. dated 11.08.2011.

5. Learned counsel for the applicant placed before us order dated 10.12.2014 passed in O.A. No.2122/2012 in a similar matter, wherein the Tribunal had examined the provisions of IREM as well as the circular dated 11.08.2011 and declared the circular dated 11.08.2011 as unconstitutional and, accordingly, quashed and set

it aside. This order was passed based on the well settled position that the Government cannot override the provisions contained in the recruitment rules already published under Article 309 of the Constitution of India. It is argued by the learned counsel for the applicant that in view of the aforesaid judgment of this Tribunal, letter dated 11.08.2011 is no longer relevant as it has been quashed and set aside and the matter should be governed by the provisions of IREM.

6. Vide order dated 11.05.2012, this Tribunal had directed the applicants to appear in the written examination provisionally for the post of Goods Guard. However, it had been directed that their results shall not be declared and interim order shall be subject to the outcome of the O.A.

7. In view of the above, we allow this O.A. and direct the respondents to declare the results of the applicants and, in case they have passed in the written examination and are otherwise eligible, they may be appointed as Goods Guard. The time frame fixed for compliance of our order is three months from the date of receipt of a copy of this order. No costs.

**(Dr. Brahm Avtar Agrawal)**  
**Member (J)**

/Jyoti/

**(P.K. Basu)**  
**Member (A)**