

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

R.A. No.229/2017 in O.A. No.2255/2015

Friday, this the 7th day of September 2018

**Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Mr. Pradeep Kumar, Member (A)**

1. Union of India through
the General Manager
Northern Railway,
Baroda House, New Delhi
2. The Secretary,
Railway Board, Rail Bhawan
New Delhi – 110 001
3. The Chief Personnel Officer
Northern Railway, Baroda House
New Delhi

..Review applicants
(respondents in O.A.)

(Mr. R V Sinha, Advocate)

Versus

1. Sh. Rajeev Saxena, XEN
Aged about 53 years
s/o late Sh. R D Saxena
r/o C-164, 2nd Floor
Lohia Nagar, Ghaziabad
2. Sh. V K Singh, Retired XEN
Aged about 68 years
s/o late Sh. Madan Pal Singh
r/o F-65, Ground Floor, Executive
Residency, Sushant Lok-2
Sec 57, Gurgaon
3. Sh. Manmohan Singh, Retd. XEN
Aged about 65 years
s/o H.No.5319, Sec 39 West
Chandigarh
4. Sh. Baljit Singh, retd. XEN
Aged about 60 years
s/o Sh. Kali Ram

r/o Village & Post Littani
Distt. Hisar, Haryana

..Respondent (Applicant in OA)

5. Sh. Vinay Kumar Gupta
r/o 303 Millenia Tower,
Ramprastha Green
Sec 7, Vaishali, Ghaziabad

..Respondent in O.A.)

(Mr. M K Bhardwaj along with Mr. Vinay Kumar Gupta -
Nemo for other respondents in R.A.)

O R D E R (ORAL)

Justice L. Narasimha Reddy:

This R.A. is filed with a prayer to review the order dated 01.02.2017 passed by this Bench of the Tribunal in O.A. No.2255/2015. The brief facts that led to the filing of instant R.A. are as under:

2. The post of Assistant Executive Engineer (AEE) in the Railways is to be filled through the process of conducting an examination. The practice was, to conduct examination once in every two years. For two years, i.e., 1998-99 and 1999-2000, 34 vacancies were available and accordingly examination was conducted and selections and appointments were made. An unsuccessful candidate, by name, Khalid Akhtar filed O.A. No.726/2004 before this Tribunal pleading, *inter alia*, that the selections ought to have been conducted separately for the vacancies of each year. The said O.A. was allowed vide order dated 31.01.2005 whereby the selection of 34 Assistant Engineers was set aside. It was directed that the selections shall be conducted for

each year separately. Writ Petition filed by the Railways against the order of the Tribunal was dismissed and SLP was also rejected.

3. The Railways initiated the process of selection by conducting examinations separately for each year. By that time, several persons not only have acquired further promotions but some of them have also retired. Those, who were still in service, filed O.A. No.2255/2015 for a declaration, *inter alia*, that they are not under obligation to appear in the written test. Through the order under review, this Tribunal held that the applicants therein shall not be under obligation to appear in the written test. The said order was challenged by the Railways in the Hon'ble High Court and thereafter in the Hon'ble Supreme Court, but were unsuccessful. However, they were accorded the permission to seek review.

4. It is pleaded that the conducting of examinations separately for two years became inevitable and the fact that the applicants in the O.A. have either acquired further promotions or some of them have retired from service, does not make much difference. It is also stated that the order in O.A. No.2255/2015 would virtually render the directions issued earlier nugatory.

5. We heard the learned counsel for the review petitioner and the learned counsel for the respondents at length, and perused the records.

6. The written test for the vacancies of AEN, for the years 1998-2000, was held almost two decades ago. Several persons, who are promoted in those selections, have retired from service and those, who are still in service, held superior positions on being promoted. It is, in this background, that we called for certain information from the respondents on 24.08.2018, particularly as regards the number of candidates, who appeared in the recently held examination separately for two years and the number of candidates, who are qualified therein.

7. Today, Mr. R V Sinha, learned standing counsel for Railways has placed before us, the information through written communication dated 29.08.2018, which is made part of record. It is to the effect that the vacancies for the two years, referred to above, were found to be 17 each, and for the year 1998-99, 45 candidates were treated as eligible for written test and out of them, only, 2 appeared and both of them did not qualify. As regards the subsequent year, i.e., 1999-2000, 45 candidates were treated as eligible, only one of them appeared, but he, too, did not qualify.

8. The result is that the entire exercise taken up for compliance of the directions of this Tribunal in O.A. No.726/2004 has turned to be an empty formality and did not yield any result, whatever.

9. Even while allowing O.A. No.726/2004, this Tribunal kept in mind, the interest of administration and directed that all the promotees whose selection was set aside, shall continue to hold the post till the exercise, indicated therein, is completed. Now that exercise is complete, though without any result, there is no point in disturbing the persons, who are holding the post on the basis of the selection made, as a result of the examination conducted earlier. We, therefore, clarify and declare that the direction issued in O.A. No.726/2004 is complied with. We also direct that in view of the situation that emerged after the examination is conducted recently, there is no necessity to disturb the appointments that took place earlier and they should remain unaffected in any manner whatever.

10. The Review Application is ordered to the extent indicated above. There shall be no order as to costs.

(Pradeep Kumar)
Member (A)

(L. Narasimha Reddy)
Chairman

September 7, 2018
/sunil/