

**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH**

...

OA NO.290/00400/2016

RESERVED ON 10.11.2017

PRONOUNCED ON: 06.02.2018

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CORAM:

HON'BLE MS. PRAVEEN MAHAJAN, MEMBER (A)

HON'BLE MR. SURESH KUMAR MONGA, MEMBER (J)

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1. ANIL KUMAR TAMBOLI S/O SHRI OM PRAKASH, AGED 42 YEARS, R/O QUARTER NO.389-B, RAILWAY COLONY ABU ROAD, RAJASTHAN.

2. AMAR CHAND S/O SHRI RAMKARAN, AGED 41 YEARS, R/O LOCO LOBBY, ABU ROAD, RAJASTHAN.

3. PANKAJ S/O SHRI RADHEYSHYAM, AGED 34 YEARS, R/O LOCO LOBBY, ABU ROAD, RAJASTHAN.

4. BHUPENDRA SINGH S/O SHRI DALVEER SINGH, AGED 36 YEARS, R/O LOCO LOBBY, ABU ROAD, RAJASTHAN.

5. GAGAN SHARMA S/O SHRI SURESH SHARMA, AGED 34 YEARS, R/O LOCO LOBBY, ABU ROAD, RAJASTHAN.

...APPLICANTS

BY ADVOCATE : MR. SURESH CHARAN

VERSUS

1. UNION OF INDIA THROUGH GENERAL MANAGER, NW RAILWAYS, MALVIYA NAGAR, JAWAHAR CIRCLE, JAIPUR.

2. THE DIVISIONAL RAIL MANAGER, NORTH WEST RAILWAY, AJMER, RAJASTHAN.

3. THE SENIOR DIVISIONAL PERSONAL OFFICER, NORTH WEST RAILWAY, AJMER.

4. THE SENIOR DIVISIONAL MECHANICAL ENGINEER (P), NORTH WEST RAILWAY, AJMER.

5. SHRI YOGENDRA SINGH S/O SHRI PREM P. LOCO PILOT (GOODS) R/O LOCO LOBBY, AJMER, RAJASTHAN.

6. SHRI SATISH KUMAR S/O SHRI LAXMAN RAM LOCO PILOT

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(GOODS) R/O LOCO LOBBY, AJMER, RAJASTHAN.

7. SHRI YOGESH KUAMR S/O SHRI KARAN SINGH LOCO PILOT
(GOODS) R/O LOCO LOBBY, AJMER, RAJASTHAN.

8. SHRI DHEERAJ KUAMR S/O SHRI JAGDISH PRASAD LOCO PILOT
(GOODS) R/O LOCO LOBBY, AJMER, RAJASTHAN.

9. SHRI PRAKASH MEHAR S/O SHRI PRABHULAL MEHAR LOCO
PILOT (GOODS) R/O LOCO LOBBY, AJMER, RAJASTHAN.

10. SHRI FATEH SINGH MEENA S/O SHRI MITHAL LAL MEENA LOCO
PILOT (GOODS) R/O LOCO LOBBY, AJMER, RAJASTHAN.

11. SHRI ALOK PRAKASH S/O SHRI OM PRAKASH LOCO PILOT
(GOODS) R/O LOCO LOBBY, AJMER, RAJASTHAN.

12. SHRI MAHENDRA KUMAR S/O SHRI DAYA RAM CHAUHAN
LOCO PILOT (GOODS) R/O LOCO LOBBY, AJMER, RAJASTHAN.

13. SHRI SURENDRA SOKARIWAL S/O SHRI PREM KUMAR
SOKARIWAL LOCO PILOT (GOODS) R/O LOCO LOBBY, AJMER, RAJASTHAN.

14. SHRI MUKESH KUMAR S/O SHRI CHHOTU SINGH LOCO PILOT
(GOODS) R/O LOCO LOBBY, AJMER, RAJASTHAN.

15. SHRI RAGHUNATH S/O SHRI SURAJ MAL LOCO PILOT (GOODS)
R/O LOCO LOBBY, AJMER, RAJASTHAN.

BY ADVOCATE: MR. GIRISH SHANKHALA FOR R/1 TO R/4 AND MR. BHARAT
SINGH

PROXY MR. H.L. GOTHWAL FOR R/5 TO R/15

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PER : SURESH KUMAR MONGA, MEMBER (J):-

THE APPLICANTS HEREIN WERE PROMOTED AS LOCO PILOT
(GOODS) ON DIFFERENT DATES I.E. 18.02.2015, 20.02.2015 AND 27.04.2015
AND AS SUCH THEY WERE POSTED AT ABU ROAD.

2. THE OFFICIAL RESPONDENTS, TO MITIGATE THE HARDSHIPS OF
ITS STAFF HAVE EVOLVED A SYSTEM OF REGISTRATION OF REQUESTS FOR
THEIR TRANSFERS WITHIN THE SAME SENIORITY UNIT BUT AT
PARTICULAR STATIONS OF THEIR CHOICE. THE APPLICANTS GOT THEIR
NAMES REGISTERED IN THE NAME NOTING REGISTERED MAINTAINED AT
DIVISIONAL LEVEL AND THEY ASSERT THAT THEY ARE MAINTAINING
REASONABLE PRIORITY FOR GETTING THEMSELVES TRANSFERRED AT

AJMER AS LOCO PILOT (GOODS). THEIR CONTENTION WAS THAT THE PRIORITY ASSIGNED TO THEM IN THE NAME NOTING REGISTER HAS BEEN IGNORED BY THE OFFICIAL RESPONDENTS AND THE PRIVATE RESPONDENTS NO. 5 TO 15 HAVE BEEN POSTED AT AJMER AFTER THEIR PROMOTION, EVEN THOUGH THEY REMAINED POSTED AT AJMER PRIOR TO THEIR PROMOTIONS AND THUS POLICY GUIDELINES UNDER WHICH THE NAME NOTING REGISTER HAS BEEN MAINTAINED ARE VIOLATED. IT WAS THE FURTHER CONTENTION OF THE APPLICANTS THAT THE VACANCIES OCCURRING AT A PARTICULAR STATION ARE TO BE FILLED UP BY THE EMPLOYEES IN PRIORITY FROM THE NAME NOTING REGISTER. IT WAS FURTHER ARGUED THAT THE PRIVATE RESPONDENTS NO.5 TO 15 WERE NEVER REGISTERED FOR POSTING AT AJMER IN NAME NOTING REGISTER AS PER THE POLICY DATED 01.10.1971 (ANNEXURE-A/6). THE APPLICANTS HAVE THUS CHALLENGED THE VALIDITY OF POSTING ORDERS OF PRIVATE RESPONDENTS NO.5 TO 15 BY INVOKING THE JURISDICTION OF THIS TRIBUNAL UNDER SECTION 19 OF THE ADMINISTRATIVE TRIBUNALS ACT, 1985. APART FROM THIS, A PRAYER HAS ALSO BEEN MADE TO QUASH THE LETTER DATED 27.02.2014 (ANNEXURE-A/5) VIDE WHICH A CLARIFICATION WAS GIVEN BY THE OFFICIAL RESPONDENTS FOR POSTING OF SCHEDULED CASTS AND SCHEDULED TRIBES CANDIDATES ON THEIR INITIAL APPOINTMENTS AS WELL AS ON PROMOTIONS EITHER AT THE SAME STATION/UNIT OR AT A NEARBY STATION/UNIT.

3. THE OFFICIAL RESPONDENTS WHILE JOINING THE DEFENCE SUBMITTED A JOINT REPLY AND OPPOSED THE OA PRIMARILY ON THE GROUND THAT THE PRIVATE RESPONDENTS NO.5 TO 15 HAVE BEEN POSTED AT AJMER ON THEIR PROMOTIONS IN TERMS OF CIRCULAR DATED 24.12.1985 RBE NO.336/85, WHEREBY IT HAS BEEN DIRECTED THAT SC/ST CANDIDATES ARE REQUIRED TO BE POSTED NEAR THEIR HOME TOWN ON INITIAL APPOINTMENT/ PROMOTION/TRANSFER. IT HAS FURTHER BEEN ASSERTED THAT THE NAME NOTING REGISTER MAINTAINS THE PRIORITIES FOR TRANSFER ON REQUEST OF EMPLOYEES AND THE SAME HAS NOT BEEN VIOLATED IN ANY MANNER. WITH THESE ASSERTIONS, THE PRAYER FOR DISMISSAL OF THE OA HAS BEEN MADE.

4. CONSIDERED THE RIVAL CONTENTIONS OF LEARNED COUNSELS FOR THE PARTIES AND PERUSED THE RECORD.

5. AS PER THE RAILWAY BOARD'S LETTERS DATED 19.11.1970 AND 14.01.1975 AS REFERRED TO IN A SUBSEQUENT RBE NO.336/85 DATED 24.12.1985, THE TRANSFERS/POSTINGS OF SC/ST EMPLOYEES ARE REQUIRED TO BE CONFINED TO THEIR NATIVE DISTRICTS OR ADJOINING DISTRICTS OR PLACES WHERE THE ADMINISTRATION CAN PROVIDE THEM THE QUARTERS TO THE MAXIMUM EXTENT POSSIBLE. WHILE KEEPING IN VIEW THE SAID CIRCULAR, THE PRIVATE RESPONDENTS NO.5 TO 15 HAVE BEEN POSTED AT THE SAME PLACE. AS PER THE STAND MAINTAINED BY THE RESPONDENTS, THE POSTINGS OF RESPONDENTS NO.5 TO 15 PURSUANT TO THEIR PROMOTIONS AT AJMER ARE IN VIEW OF THE SAID CIRCULAR.

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THERE IS NO VIOLATION OF THE PRIORITIES MAINTAINED IN THE NAME NOTING REGISTER FOR AFFECTING TRANSFERS OF EMPLOYEES ON THEIR REQUEST TO THE PLACE OF THEIR CHOICE.

6. WE DO NOT FIND ANY SUBSTANCE IN THE ARGUMENT RAISED BY THE LEARNED COUNSEL FOR THE APPLICANTS ALLEGING VIOLATION OF PRIORITIES MAINTAINED IN THE NAME NOTING REGISTER FOR AFFECTING TRANSFERS OF THE EMPLOYEES ON THEIR REQUEST AT THE PLACE OF THEIR CHOICE. SO FAR AS THE CHALLENGE TO LETTER DATED 27.02.2014 (ANNEXURE-A/5) IS CONCERNED, NO TANGIBLE ARGUMENT WAS RAISED ON BEHALF OF THE APPLICANTS DURING THE COURSE OF ARGUMENTS. THE SAID LETTER WAS ISSUED BY THE RESPONDENTS TO CLARIFY ITS EARLIER INSTRUCTIONS WHEREBY THE PRIORITY HAS BEEN GIVEN TO SC/ST EMPLOYEES IN THE MATTER OF POSTINGS AT THE SAME STATION/ UNIT AND IN CASE THE VACANCIES ARE NOT AVAILABLE AT THE SAME STATION THEN AT A NEARBY STATION/UNIT AND STILL IF IT IS NOT POSSIBLE THEN AT A PLACE WHERE THE ADMINISTRATION IS ABLE TO PROVIDE RESIDENTIAL QUARTERS. WE DO NOT FIND ANY INFIRMITY OR ILLEGALITY IN THE IMPUGNED LETTER CLARIFYING THE RAILWAY BOARD'S EARLIER INSTRUCTIONS. THE INSTANT OA, THUS DESERVES TO BE DISMISSED.

7. ACCORDINGLY, THE OA IS DISMISSED. HOWEVER, THERE SHALL BE NO ORDER AS TO COSTS.

(SURESH KUMAR MONGA)
MEMBER (J)

(PRAVEEN MAHAJAN)
MEMBER (A)

RSS/KDR

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