

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH



No. OA 350/01367/2015

Present: Hon'ble Ms. Bidisha Banerjee, Judicial Member
Hon'ble Mr. P.K.Basu, Administrative Member

JAYANTA BANDYOPADHYAY & ORS.

VS

UNION OF INDIA & ORS.

For the applicants : Mr.A.Ghosh, counsel

For the respondents : Mr.A.K.Banerjee, counsel

Order on : 30.3.16.

O R D E R

Ms. Bidisha Banerjee, J.M.

This application has been filed by 28 applicants seeking the following

reliefs :

- a) An order directing the respondents their servants agents and/or employees and each one of them to act upon the directive/letters of Railway Boards to engage course complete Act Apprentice at the earliest, as substitute in vacant Group 'D' post by completing all the formalities which had been started in the year 2013;
- b) An order directing the respondent authorities to engage course complete Act Apprentice in vacancy Group 'D' post at the earlist within a specified time in accordance with the maintaining the seniority;

2. They have claimed that they possess Diploma in Electrical & Mechanical Discipline and applicants No. 6 & 18 possess B.Tech. in Electrical Discipline. They got a call for interview at Board of Practical Training, Eastern Region, Kolkata and passed the proficiency test. They were posted at Technical Training Centre, CLW, Chittaranjan Workshop and completed their one year GOI training. They received a stipend and other benefits under Apprentice Act.

On 21.6.04 the EDC (Trg. & MTP) Railway Board, Govt. of India, Ministry of Railways issued a notification, being E(MPP) 2002/12 126/Vol.II, addressed to all General Managers of Indian Railways including Production Units that all Course Completed Act Apprentices could be engaged as Substitutes in Group

D' categories and accordingly they made several representations to the General Manager, Eastern Railway to engage them as Substitute.

In 2005, S.E. Railway engaged 31 trainees and again in 2010 several Course Completed Act Apprentices were engaged in Group 'D' categories. The benefit was extended vide communication dated 17.9.10 by the Dy. Director Estt.(N) II to all General Managers (P) of Zonal Railways/ Production Units and thereafter on 2.12.10 in regard to engagement of Course Completed Act Apprentice in Group 'D' categories.

3. The grievance of the applicant as could be culled out from the pleadings is that they languish till date without absorption, despite such clear orders and instructions. Attention is particularly invited to RBE 113/12 as contained in Annexure A/6 to the OA which clarifies the position in regard to their rights, as under :

Issues raised by the Railways/Units	Clarification
Whether Diploma/Degree holder Act Apprentices (GOI trainees) imparted training are to be absorbed after 2.12.2010 (i.e. the date from the issue of Board's letter) or from any other cut-off date.	Degree/Diploma holders trained in railway establishments, earlier than the issue of letter dated 2.12.10 (RBE No. 171/2010) cannot be ignored if they are otherwise eligible for being engaged as substitutes in Group 'D'. Seniority ist as maintained for the trained Trade Apprentices should also be maintained for the Degree/Diploma Holders Act Apprentices.
The age bar for absorption of GOI trainees.	The upper age limit for all recruitment to all Group 'C' and 'D' categories including engagement of substitutes is to be followed as detailed in Board's letter No. E(NG)II/94/RR-1/29 dated 10.5.1999
Before absorption, whether any examination/screening is necessary as is done in the case of passed out Act Apprentices.	The Diploma/Degree holder Act Apprentices can be engaged as substitutes provided they fulfil the criteria as laid down vide Board's letter No. E(NG) II/2008/SB/SR/15 dated 17.9.2010.
Since no papers are available in respect of Diploma/Degree holder Act Apprentices with the Rly. Admin except the name and no result is forwarded whether they have completed training by BOAT.	The railways should obtain the relevant details/certificates e.g. education qualification, age, etc. From BOAT or the institute from where the candidates have been selected for training in the railway establishments and also the Proficiency Certificate issued by BOAT.

It would be noticed that CPO on 7.12.11 (Annexure A/7) communicated to the Railway Board that Diploma holders Electrical/Mechanical and GOI trainees candidates could be engaged as such.

4. Per contra the respondents would submit that RBE 137/10 which laid down the basic criteria for engagement of Substitute is under challenge before this Bench. Although General Managers were empowered to engage the Substitutes in erstwhile Group 'D' in Grade Pay Rs.1800 in terms of the RBE, it has become a regular source of public employment without following the rule, the administration was not in a position to consider the appeal of the applicants the matter being sub judice. However, they have emphatically admitted that an indent has been placed before the RRC, Kolkata for filling up vacancies, 398 numbers of candidates in Grade Pay Rs. 1800 at CLW.

5. We have heard Id. Counsel for the parties and perused the materials on record.

6. In as much as the clarifications as in RBE 113/12 would clarify that Diploma/Degree holders Act Apprentices (GOI trainees) could be engaged as Substitutes in Group 'D' category, the plea of the present applicants seeking engagement could not be brushed aside. In view of the emphatic admission of the respondents that 398 vacancies are available under Group 'D' category the OA is disposed of with a direction upon the respondents to issue appropriate reasoned and speaking orders indicating whether the applicants could be considered for engagement as Course Completed Act Apprentice and as such as Substitutes in Group 'D' in Indian Railways.

7. Let appropriate orders be issued within three months from the date of communication of this order.

8. Accordingly the OA stands disposed of. The applicants are directed to file individual Court fees.

(P. BASU)
MEMBER (A)

(BIDISHA BANERJEE)
MEMBER (J)