

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH
JABALPUR

Original Application No.200/166/2011

Jabalpur, this Monday, the 25th day of February, 2019

HON'BLE MR. NAVIN TANDON, ADMINISTRATIVE MEMBER
HON'BLE MR. RAMESH SINGH THAKUR, JUDICIAL MEMBER

1. Swaroop Singh Dangi, S/o Shri S.L. Dangi, aged about 49 years, R/o RB-III, 421/6, How bagh, Railway Colony' Jabalpur (MP) 482001.
2. Rakesh Sharma, S/o Shri Nayak Kishore Sharma, aged about 47 years, R/o 14, Defence Colony South Civil Lines Jabalpur (MP) 482001.
3. D.K. Pare, S/o Shri Madan Lal Pare, aged about 47, R/o MF 48 Shivaji Parisar, 72 Sr. MIG, Housing Board Colony, Nehru Nagar, Bhopal (MP) – 4620023.
4. Anil Kumar Tiwari, S/o Shri S.S. Tiwari, aged about 44 years, R/o 1, Professor's Colony Near Shiv Mandir, Bhopal (MP) 462002.
5. Anoop Kumar Shrivastava, S/o Shri S.K. Shrivastava, aged about 45, R/o Rly Qtr. RB 220/J, HBJ Railway Colony, Bhopal (MP) – 462024.
6. Nitin Katdare, S/o Late W.C. Katdare, aged about 51, R/o 51, Kalpana Nagar, Bhopal (MP) 462021.
7. Kishore Kumar Mahajan, S/o Shri R.D. Mahajan, R/o 5, Subhash Ward, Harda (MP) 461331.
8. Mehmood Hasan, S/o Mohammad Hasan Ansari, aged about 45 years R/o 76, Sector A, Hazrat Nizamuddin Colony, Bhopal (MP) 462021.

9. Rakesh Kumar Gupta, S/o Shri R.C. Gupta, aged about 45 years, R/o Geet Bihar, Behind Hotel Aksha Ganga, Gwarighat Road, Jabalpur – 482001.

10. Pradeep Kumar Taneja, S/o Shri Manohar Lal Taneja, aged about 45 years, R/o 244, Panchwati, Airport Road, Lalghat, Bhopal (MP) 462032.

11. Rajesh Kumar Gupta, S/o Shri R.C. Gupta, aged about 45 years, R/o 704, Sneh Nagar, Jabalpur (MP) 482001.

12. Smt. Sangeeta Jain, W/o late M.K. Jan, aged about – 43 years, R/o 22, Private Bijili Colony, Near Durga Mandir, Govindpura, Bhopal (MP) 462002.

13. Anupam Kumar Gupta, S/o Shri B.P. Gupta, R/o M-463/9A, Saket Nagar, Habibganj, Bhopal (MP) 46202 **-Applicants**

(By Advocate – Shri Jagdish Sakalle)

V e r s u s

1. The Union of India through Secretary, Ministry of Railway, Rail Bhawan, New Delhi.

2. The General Manager, West Central Railway (WCR), Indira Market, Civil Lines, Jabalpur (MP) 482001.

3. The Chief Personnel Officer, West Central Railway (WCR), Indra Market, Civil Lines, Jabalpur (MP) 482001.

4. The Divisional Railway Manager (P), West Central Railway, Bhopal Division, Habibganj, Bhopal (M.P.) 462024- **Respondents**

(By Advocate – Shri Vijay Tripathi)

O R D E R (R E A S O N E D)

By Ramesh Singh Thakur, JM.

By way of this Original Application, the applicants are seeking direction to the respondents to fill up 80% posts of Section

Engineer (W) by departmental promotion and till then respondents may be restrained to fill up the post of direct recruitment, i.e. 20% quota, as per result declared vide Annexure A-1.

2. The applicants have, therefore, sought for the following reliefs:

“8.1 To direct the respondents to call the DPC for the post of SE (W) in Gr.6500-10500/- and filled up the 80% promotion quota in Bhopal Division and further the applicants may be considered and promoted in accordance with law with all consequential benefits, before the joining/appointment of the direct recruitment of 20% quota as Annexure A-1.

8.1(i) To direct the respondent No.4 to implement the order passed by the respondent No.3 in its letter and spirit. Further may be directed to fill up the 56 post of Section Engineer (Works) in Bhopal Division under 80% promotional quota against the 14 post of Section Engineer (Works) in Bhopal Division under 20% direct recruitment quota (Annexure-A/6) and further the petitioner herein may be considered and promoted in accordance with law with all consequential benefits.

8.2 Any other writ, orders or direction as this Hon'ble Court deem fit and proper looking to the fact and circumstance of the case.

8.3 Award the cost of the petition.”

3. Brief facts of the case, as narrated in the Original Application, are that the applicants are working as Junior Engineers in Civil Engineering department of West Central Railway, Bhopal.

The vacancies in higher grade, i.e. Rs.7450-11500 and 6500-10500 (RSRP) are lying vacant for want of selection. The respondents, instead of filling these posts through department promotion, are making direct recruitment through RRB, Bhopal (Annexure A-4).

4. It is the case of the applicants that respondents should have filled up the vacant post of SE (W) through normal procedure first before intending through direct recruitment through RRB Bhopal. As per the Railway Board's policy, 20% posts of Section Engineer (W) are required to be filled up by direct recruitment and 80 posts by department promotion. However, the respondents are not following the same and adopting pick and choose method.

5. The applicants have earlier approached this Tribunal by filing Original Application No.203/2008, which was disposed of on 24.03.2008 with direction to the respondents to consider and decide the representation of the applicants by passing a speaking, detailed and reasoned order. Accordingly, the respondents have passed the order dated 09.05.2008 (Annexure A-3). However, no action has been taken by the respondents to fill up the vacant posts of promotional quota in Bhopal Division. In the meantime, the result of Employment Notice No.03/2007 has been declared, whereby 52

candidates plus 6 additional candidates have been found successful for direct recruitment to the vacant post of SE(W).

6. The applicants submit that the respondents appointed 14 persons in Bhopal Division by order dated 04.08.2009 (Annexure A-6), by way of direct recruitment, i.e. 20% quota but against said post, they are not promoting 56 persons, i.e. 80% by way of promotional quota, as has been mentioned in the Board's policy.

7. The respondents have filed their reply. It has been submitted by the respondents that considering the development of infrastructure, passenger amenities and welfare activities, the Head Quarter office of West Central Railway, Jabalpur has fixed lien of 14 candidates on the post of SE (Works) in the Grade Pay Rs.4600/- vide order dated 04.08.2009 (Annexure A-6). It has been further submitted that the sanctioned strength of SE (Works) was only 24 including 09 posts of Construction department, whereas there are only 19 posts against departmental quota. All these 19 posts have already been filled up and no post of SE (Works) in Gr. Pay Rs.4600/- is lying vacant.

8. The respondents have also submitted that against the quota of direct recruitment, 03 candidates have been posted in HQ office

and 02 candidates are posted in open line under Sr. DEN/BPL and against the direct recruitment quota of 5 posts, 06 employees are already working. To cover up 01 excess employee, 04 posts of SE (W) are being created in Construction organisation. Thus, the claim of 56 additional posts cannot be sustained and no right of departmental quota has been seized.

9. The respondents have stated that as per direction received vide Annexure A-3, there was no action required to be taken by the Bhopal Division as the panel of RRB candidates received in the year of 2009 and after completion of mandatory initial training, the 07 candidates were posted in the year 2010. Earlier to posting of these RRB candidates, the promotional quota was filled by giving promotion to serving eligible staff in the year 2010.

10. The applicants have filed their rejoinder to the reply filed by the respondents and have denied the averments made in the reply. It has been submitted that the employment notice No.01/2012 was published on 10.03.2012 (Annexure A-8), which means 64 post of SE (Works) under the 80% promotional quota is lying vacant.

11. We have heard the learned counsel for the parties and gone through the documents available on record.

12. The case of the applicants is that the respondents are not maintaining the ratio of 80:20% quota of departmental promotion and direct recruitment to the post of SE (Works). The main grievance of the applicants is that the respondent department are filling up the posts from the direct recruitment quota (20%) through the RRB Bhopal.

13. There is no dispute regarding declaration of result in pursuance of employment notice No.03/2007 (Annexure A-1) for Category No.2 of Section Engineer (Works). It is also not disputed that the RRB has declared the result and 14 posts of SE (Works) in Grade Pay Rs.6500-10500 (RSRP) by way of direct recruitment, has been appointed on the post of SE (Works). It is an admitted fact by both the parties that the direct recruitment i.e. 20% quota has been filled by the RRB against the employment notice No.03/2007.

14. In the reply, the respondents have specifically submitted that against the sanctioned strength of SE (Works) in Grade Pay Rs.4600/- only, 24 including 09 posts of Construction department, there are only 19 posts against departmental quota and all these 19 posts have already been filled up and no post of SE (Works) is lying vacant. It has also been specifically submitted by the

respondents that 05 posts of direct recruitment of 20% are available. Instead against the 05 posts of direct recruitment quota, 06 employees are working.

15. As per Annexure A/7 information received by the applicants on 11.01.2012 under RTI, the list of persons recruited between year 2007 to 2011 under 20% RRB quota has been indicated. Under 80% quota, to which the applicants belongs, 09 persons have been shown to be promoted during the year 2007 to 2011.

16. Learned counsel for the respondents has specifically submitted that RRB Bhopal has been recruiting the personnel for the various divisions, which includes Bhopal, Jabalpur and Kota division. Further under 80% quota for the post of SE (Works), the sanctioned strength is of 24 including 09 posts of Construction department and at the relevant time, no post for departmental quota is available, rather one person in the direct quota has been recruited in excess. The applicants have failed to show from the record that the RRB Bhopal is recruiting only for Bhopal Division. The applicants could not make out any case to the effect that 56 posts are from direct recruitment from the Bhopal Division. On the other side, the respondents have categorically submitted that total

sanctioned strength of SE (Works) is 24 and no post for promotional quota is available.

17. In view of the above, we are of the view that there is no illegality in the action of the respondent department. Accordingly, the O.A is dismissed being devoid of merit. No costs.

(Ramesh Singh Thakur)
Judicial Member
am/-

(Navin Tandon)
Administrative Member