

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI.

ORIGINAL APPLICATION No.109/2015

Date of Decision: 28.03.2019.

CORAM: R. VIJAYKUMAR, MEMBER (A)
R.N. SINGH, MEMBER (J)

1. Smt. Bharati V. Patel,
D/o Maganlal Makwana,
Age 45 years, working as Private
Secretary, Western Railway, Divisional
Railway Managers Office, Ratlam Division,
Ratlam. R/at 4/45, Abhilasha Bldg. Bellasis
Bridge, Tardeo, Mumbai 400 034.
2. Smt. Amutha Mohan, D/o Mr. Samuel
Paulraj, Age 45 years, working as Private
Secretary – II, Signal & Telecommunication
Department, Western Railway Headquarter Office,
Churchgate, Mumbai 400 020.
R/at B-401, Swaran Hans Tower, 2nd Road,
Sriprashtha, Nallasopara (W), Thane Dist. 401 203.
3. Smt. Poonam Pradhan,
D/o Bharat Bhooshan, Age 55 years,
working as Private Secretary – II, Signal &
Telecommunication Department, Western Railway
Headquarter Office, Churchgate, Mumbai 400 020.
R/at L-5/II, Laxmi Ramana CHS, Bangur Nagar,
Goregaon (W), Mumbai 400 020.
4. Shri Jayarajan V.K. Son of C.V. Kunhikannan,
Age 58 years, working as Private Secretary -II,
Electrical Department, Western Railway Headquarter
Office, Churchgate, Mumbai 400 020.
R/at E-2/6, Nisarg CHS Ltd., Sector 48-A, Nerul (W),
Navi Mumbai 400 706.
5. Shri Prakash Mulchandani, Son of
Mr. Narumal J. Mulchandani, Age 50 years,
Signal & Telecommunication Department,
Western Railway HQ Office, Churchgate,
Mumbai 400 020. R/at 202, Royal Galaxy,
Near Post Office, Goal Maidan, Ulhasnagar – 421 001.

6. Shri Premarajan M., Son of K.V. Krishnan Nair, Age 52 years, Private Secretary, Konkan Railway Corporation Ltd., Belapur. R/at E-2/6, Nisarg CHS Ltd. Sector 48-A Nerual (W), Navi Mumbai 400 706. ... *Applicants*
(Advocate Shri Vishal Shirke, proxy counsel for Shri S.V. Marne)

VERSUS

The Union of India,
 Through the General Manager,
 Western Railway Head Quarters Office,
 Churchgate, Mumbai 400 020. ... *Respondent*
(Advocate Shri V.S. Masurkar)

ORDER (Oral)
Per : R. Vijaykumar, Member (A)

Heard the learned counsels for the parties.

2. This Application has been filed on 13.02.2015 under Section 19 of the Administrative Tribunals Act, 1985 seeking the following reliefs;

“8.i) This Hon'ble Tribunal may graciously be pleased to call for the records of the case from the respondents and after examining the same quash and set aside the impugned show-cause notices dated 16.12.2014 in respect of each of the applicants.

8.b) This Hon'ble Tribunal may further be pleased to hold and declare that the promotions of the applicants to the post of Private Secretary Gr.II granted vide panel dated 14.07.2010 and promotion order dated 29.07.2010 are legal and valid and the respondents be restrained from disturbing the same.

8.c) Costs of the application be provided for.

8.d) Any other and further order as this Hon'ble Tribunal deems fit in the nature and circumstances of the case be passed."

3. The Applicants have challenged a show-cause notice issued by the competent authority of the respondents namely General Manager (E) dated 16.12.2014 stating that the selection made for the post of P.S. Grade-II had to be reviewed to be in conformity with the Railway Board's orders on the selection procedure and upon reviewing the previous orders, it was noted that there were errors that affected the applicants by which their seniority and their inclusion in the panel could be affected including for reversion to their substantive grades. The Applicants have filed representations - some of them within the time period up to 31.12.2014 including in February 2015 and then, after filing these representations, they have approached this Tribunal without awaiting orders of the competent authority.

4. From the very perusal of the impugned show-cause notice, it is evident that no final decision has been taken by the respondents which may be construed as

prejudice to the interests of the applicants and they have been given 15 days time from the date of issue of impugned show-cause notice to make their representations, if any. It is settled law that mere show-cause notice does not give a cause of action unless the same is issued by an incompetent authority or the same adversely affects the applicants. However, in the present case, it is not disputed by the applicants that the show-cause notice has been issued by the competent authority and it is also not disputed that the applicants have been given reasonable time to make their representations.

5. In view of the aforesaid, we do not find any cause of action agitated that could maintain the present OA. However, the learned counsel for the applicants submits that the applicants have approached this Tribunal under the *bona fide* apprehension that the show-cause notice is merely a formality and the respondents have already prepared a revised panel and the same may be issued even without considering their representations.

6. In view of the aforesaid, the OA is disposed of with directions to the respondents to consider the representations of the applicants and decide the same within four weeks of receipt of a certified copy of this order. However, until the respondents take a final decision on the representations of the applicants and orders are communicated to the applicants, the respondents shall not give effect to any order which may be prejudicial to the interest of the applicants.

7. In the aforesaid terms, the OA is disposed of.

(R.N. Singh)
Member (J)

(R.Vijaykumar)
Member (A)

dm.

*JW
Vijay*

