

**CENTRAL ADMINISTRATIVE TRIBUNAL
PATNA BENCH, PATNA
OA/050/00439/15**

Reserved on: 23.01.2019
Pronounced on: 25.01.2019

C O R A M

**HON'BLE MR. JAYESH V. BHAIRAVIA, JUDICIAL MEMBER
HON'BLE MR. DINESH SHARMA, ADMINISTRATIVE MEMBER**

1. S.B. Kumar, Son of Sri Saryug Prasad. Loco Pilot (D) Under Senior Divisional Mechanical Engineer, East Central Railway, Danapur.
2. Nandjee Singh, Son of Sri Dashrath Prasad Singh, Loco Pilot (D) under Senior Divisional Mechanical Engineer, East Central Railway, Danapur.
3. Navin Kumar, son of Sri Jagdish Prasad, Loco Pilot (D), Under Senior Divisional Mechanical Engineer, East Central Railway, Danapur.
4. R.P. Srivastava, Son of Sri Madan Mohan Prasad, Loco Pilot (D), Under Senior Divisional Mechanical Engineer, East Central Railway, Danapur.

..... Applicants.

- By Advocate: - Mr. M.P. Dixit

-Versus-

1. The Union of India through the General Manager, East Central Railway, Hajipur, District - Vaishali (Bihar).
2. The General Manager (Personnel), East Central Railway, Hajipur, District- Vaishali (Bihar).
3. The Divisional Railway Manager, East Central Railway, Danapur (Bihar).
4. The Divisional Mechanical Engineer (Power), East Central Railway, Danapur (Bihar).
5. The Senior Divisional Personnel Officer, East Central Railway, Danapur (Bihar).

..... Respondents.

- By Advocate(s): - Mr. K.P. Narayan

O R D E R

Per Dinesh Sharma, A.M.:- The instant application is filed against the order dated 15.06.2015 together with order dated 24.02.2015 issued by respondent no. 5 whereby the applicants have been shown as not eligible to appear in the selection test for promotion to the post of Chief Loco

Inspector scheduled to be held on 05.07.2015 due to the reason that they have not completed 75,000 kilometres foot plating experience. This, according to the applicant, is arbitrary, illegal, discriminatory and also against the rules laid down in the Indian Railway Establishment Manual Vol. I, 1989.

2. The applicant claims that the condition regarding 75000 kilometres foot plating experience is to be given effect at the time for the actual promotion as Chief Loco Inspector and not at the time of calling the persons to appear in the examination

3. The respondents have categorically denied this claim and claimed that only person who possess 75,000 kilometres foot plate experience as Loco Pilot in terms of RBE No. 51/2009 were eligible for appearing in the examination. Since the applicant did not have this experience their candidature was rejected in terms of RBE No. 51/2009, 17/2005.

4. The applicants in their rejoinder have annexed a copy of notification dated 31.12.2014 under which the selection in question was notified. They have also enclosed copies of RBE No. 51/2009 as Anenxure P/3.

5. We have gone through the pleadings and heard the arguments of both the sides. The issue here is whether the applicants should have completed their driving experience of 75,000 kilometres as Loco Pilot before the selection process or they could have completed this experience by the time they were actually promoted as Chief Loco Inspector. The

concerned notification, which roughly translates the stipulations of RBE No. 51/2009 in Hindi, (Annexure P/11 filed with the rejoinder) is reproduced below: -

6. An English translation of the condition mentioned in the concerned notification for filling the post of Chief Loco Inspector is also given below:-

“The question of modifying the eligibility criteria for filling up the posts of Loco-Inspectors and Power Controllers/Crew Controllers has been engaging attention of Railway Board for quite some time. After careful consideration, the Board have decided to modify the eligibility criteria contained in Board’s letter no. E(P&A)II-83/RS-10(iv) dated 25.11.1992 (Bahri’s RBO 198/92, p-212) and E(P&A) II-83/RS-10 dated 09.01.98 (Bahri’s RBO 9/98, p-4) as amended from time to time, as under:-

(i) The words “three years footplate experience” mentioned in eighth line of para 1 of Board’s letter No. E(P&A)II-83/RS-10 dated 07.10.2002 (Bahri’s RBO 180/2002 p-192) may be replaced by “75000 kms of actual driving experience as drivers”. This shall also be applicable in the case of drivers medically decategorized upto the level “A-3” who are considered eligible for selection for the post of Loco Inspectors in terms of Board’s letter No. E(P&A)II-2006/RS-21 dated 03.01.2007 (Bahri’ RBO 2/2007, p-1).

(ii) Para 2(b) of Board’s letter dated 09.01.98 ibid may be substituted as under:-

“2(b) To perform the duties hitherto being performed by Power/Crew Controllers in the Control Office or in the place where the Crew Controllers were headquartered, eligible and suitable Mail/Express Drivers, Sr. Passenger/Passenger Drivers and Sr. Goods/Goods Drivers will be drafted. Only

drivers having a minimum 75000 Kms of actual driving experience shall be eligible to be drafted as Power/Crew Controllers.”

(iii) Existing running staff, including drivers medically decategorised up to the level “A-3”, who are posted as Power/Crew Controller, if they are already having the requisite 75,000 Kms of actual driving experience.

(iv) Existing running staff, posted as Power/Crew Controller, who are not medically decategorised and who do not have the requisite 75,000 Kms of actual driving experience, will also be eligible to be considered for the post of Loco Inspector, with the proviso that the shortfall will have to be made good by them by being deployed on footplate duties, prior to their being actually posted to work as Loco Inspector.””

7. It is clear from the quotations above that the notification required actual driving experience of 75,000 kilometres till the date of issue of such experience certificate. The rule regarding fulfilling this condition by the date of promotion is applicable only to those existing running staff who are posted as Power/Crew Controller and who are not medically decategorised. These two conditions are not fulfilled by the applicants and thus declaring them ineligible on the date of their application is not wrong. During the course of arguments, the learned counsel for the applicants also produced a copy of an earlier decision of this Tribunal in OA 140/2008 which was later confirmed by High Court in CWJC No. 14063 of 2013. We have gone through the facts of that case as mentioned in the above-mentioned order. In that case this Tribunal has found the direct foot plate experience from 1996 to 2004 and from 2004 till date as supervisor of drivers as relevant. There was also an issue of treating Loco Pilot and Driver as the same post or synonymous. Thus, on the face of it the ruling cannot be said to apply directly on the facts of this case. As far as the decision of Hon’ble High Court in this matter is concerned, it was contested there only on the issue

of there being a vacancy and on non-joinder of necessary party and thus that ruling also does not offer any guidance about how to count the foot plate experience. The learned counsel for the applicants also drew our attention to the Chapter IX of IREM Vol. I where Rule 902.2 (iii) defines running duties. Since this definition in no way defines the foot plate experience insisted upon for eligibility to the post of Chief Loco Inspector and is in an entirely different context, this cannot lead us to conclude that all experience at any level in running movement of train should be counted for eligibility to the post of Chief Loco Inspector. The OA, therefore, has no merit and is dismissed. No order as to costs.

[Dinesh Sharma]
Administrative Member
Srk.

[Jayesh V. Bhairavia]
Judicial Member