

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH
CIRCUIT SITTINGS: BILASPUR

Original Application No.203/01123/2017

Bilaspur, this Wednesday, the 03rd day of April, 2019

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

1. Gangadhar Sahu S/o Shri Besakhu Ram Sahu Aged about 33 years, Unemployed, Residing at Village: Kurud Tehsil-Berala District Bemetara PIN 491335 (CG)
2. Gajadhar Prasad Sinha, S/o Late Ramulal Sinha Aged about 40 years, Unemployed Residing at Village & Post Kaneri Block Gurur 491227 Dist: Baload (CG)
3. Purushottam Lal S/o Shri Dhanesh Ram Aged about 25 years, Unemployed Residing at Village & Post Basin Thana Gurur Dist. Balod 491227 (CG)
4. Ashwanlal Shrawan, S/o Shri Ramgulal Shrawan, Aged about 32 years, Unemployed Residing at Village Mujgahan PO Gurur Dt. Balod 491227 (CG)
5. Chainlal Sahu S/o Shri Suk Lal Sahu Aged about 39 years Unemployed Residing at Vill. And Post Machand Via ANDA Dist. Durg 491221 (CG)
6. Pinesh Kumar, S/o Shri Budharu Ram Aged about 37 years, Unemployed Residing at Vill. & Post Dadhari Tehsil Gurur Dist. Balod (CG) 491227

-Applicants

(By Advocate-**Shri B.P. Rao**)

V e r s u s

1. Union of India, Through the General Manager S.E.C. Railway Bilaspur Zone Headquarters' Office, Bilaspur 495004
2. The Chairman Railway Recruitment Cell, South East Central Railway Annex. Building G.M.'s Office Bilaspur 495004 (CG)

3. The Assistant Personnel Officer Railway Recruitment Cell South East Central Railway Annex. Building G.M.s office Bilaspur 495004 (CG)

4. The Chief Personnel Officer, S.E.C. Railway, Bilaspur Zone, Headquarters Bilaspur 495004 - Respondents

(By Advocate-**Shri R.N.Pusty**)

O R D E R (Oral)

By Navin Tandon, AM:-

The applicants are aggrieved that the respondents have not issued the appointment letters to them, even though they have cleared all the four stages of selection namely written test, physical efficiency test, document verification and medical examination.

2. The brief facts of the case are as under:-

2.1 The respondent-department vide Employment Notice No.SECR/02/2010 dated 15.12.2010 (Annexure A/1) invited applications for total 5798 posts of Group 'D' in various department of the Railways.

2.2 The applicants applied for the same and cleared all the stages.

2.3 While the applicants were called for document verification and medical examination, it was stipulated in the call letters that the applicants are coming under 20% replacement quota.

2.4 No appointment letters were issued to the applicants.

2.5 For the total number of vacancies 5798, number of candidates called for document verification were 6995. There are 642 posts lying vacant in SECR after filling up the posts in the said selection.

3. The applicant has sought for the following reliefs:-

“8.1 That, the Hon’ble Tribunal be pleased to allow the O.A. and by calling entire relevant records from the possession of Respondents for its kind perusal to decide the Applicant’s grievance.

8.2 That, Hon’ble Tribunal be pleased to pass an Order, directing the respondent-railways to fill-up the remaining 624 vacancies through Railway Recruitment Cell, Bilaspur, under Replacement Quota as per Circular dated 73/2008 dated 17.06.2008 (A-10) and to issue offer of Appointment to the Applicants who were declared medically fit for job, in the interest of justice.”

4. Learned counsel for the applicant submitted that for the same selection, Hon’ble Supreme Court in the matters of ***Dinesh Kumar Kashyap and Others etc. vs. South East Central Railway and Others etc.*** decided on 27.11.2018 (Annexure A/21) has held as under:-

“14. In view of the above, the appeals are allowed. The judgment of the High Court and CAT, Jabalpur Bench are set aside. The appellants are entitled to the benefit of the letter dated 02.07.2008. While allowing the appeals we issue the following directions:

- (i) The benefit of this judgment shall only be available to those appellants who had approached the CAT;*
- (ii) The appellants shall not be entitled to any back wages;*

(iii) The appellants shall, for the purpose of seniority and fixation of pay be placed immediately above the first selected candidates of the selection process which commenced in the year 2012 and, immediately below the candidates of the selection list of 2010 in order of seniority;

(iv) The appellants shall be entitled to notional benefits from the date of such deemed appointment only for the purposes of fixation of pay and seniority.”

5. Learned counsel for the respondents vehemently argued that the present applicants have not approached this Tribunal with promptitude and they cannot get the benefit of Supreme Court judgment. Further they have stated that the currency of the panel has already expired in March 2016. Subsequently, two more notifications have already been issued in which the selections have already taken place. He also submits that this case has been filed when the applicants in ***Dinesh Kumar Kashyap*** (supra) had already approached the Hon’ble Supreme Court, after their cases were dismissed by this Tribunal and Hon’ble High Court.

6. We have considered the case.

7. The judgment of Hon’ble Supreme Court is specifically for this selection only. Further Hon’ble Supreme Court has issued clarification vide M.A. Nos.439-442/2019 on 01.03.2019, which is as under:-

“Having heard learned counsel appearing for the applicants and upon perusal of the application(s) for directions, we clarify our judgment dated 27.11.2018 in Civil Appeal Nos.11360-11363 of 2018 to the extent that the

benefit of the said judgment shall be available to all those persons who had filed petition(s) before the Central Administrative Tribunal (CAT). ”

8. We find that this Original Application has been filed in December 2017 whereas the judgment passed by the Hon’ble Supreme Court in the matter of ***Dinesh Kumar Kashyap*** (supra) is decided on 27.11.2018. Therefore, these applicants can be considered to get the benefit and the case is fully covered by the said judgment of Hon’ble Supreme Court.

9. Accordingly, this Original Application is allowed. Respondents are directed to consider the case of applicants in the line of the directions given in the case of ***Dinesh Kumar Kashyap*** (supra). No costs.

(Ramesh Singh Thakur)
Judicial Member

(Navin Tandon)
Administrative Member

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