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BEFORE,

THE CENTRAL ADMINISTRATIVE TRIBUNAL

KOLKATA BENCH :: AT KOLKATA

[APPLICATION UNDER SECTION 19 OF THE ADMINISTRATIVE TRIBUNALS
ACT, 1985]

REGISTRATION OF O.A. No. 350/00 486 of 2019

1. BHASKAR ROY CHOUDHURY, Aged: 51 years S/O - Late Baidyanath Roy Choudhary, presently posted as Assistant Personnel Officer/Printing/Headquarter, Eastern Railway, Fairlie Place, Kolkata.
Residing at: 179, Kalobari Road Extension, New Barrackpur, Kolkata-700131
2. HIMADRI SEKHAR ROY, Aged: 43 years S/O - Late K. Roy, presently posted as Assistant Signal & Telecommunication Engineer/ Tele/II/Headquarter, Eastern Railway, Kolkata.
Residing at: Kabi Sukanta Road, P.O: Nabapally, P.S: Barasat, District: 24 PGS(N), Kolkata-700126, WB.
3. SUVAJIT NARAYAN SUR, Aged: 53 years S/O - Late Ajit Narayan Sur, presently posted as AFA/Stores-I /HQ, Eastern Railway, Kolkata.
Residing at: 5/150, Roybazar, Post Dist, Hooghly-712103
4. ARUN KUMAR BHATTACHARJEE
Aged: 58 years S/O - LATE AKSHOY BHATTACHARJEE, presently posted as AEN/BRL/HQ, Eastern Railway, Kolkata.
Residing at: 38A/12 Jyotish Roy Rd, Kolkata-700053 (New Alipore)
5. RISHI BANERJEE, Aged: 42 years S/O - Sri Somnath Banerjee, presently posted

as Assistant Material Manager/MMIS/
Headquarter, Eastern Railway, Kolkata.

Residing at: Flat No.202, Bappa
Apartment, 2 NO M.B.K Lane, Bhadrakali
Hooghly, PIN-712232

6. PRASHANTA KUMAR DAS, Aged: 57 years
S/O - Sri Pada Renu Das, presently
posted as Assistant Mechanical
Engineer/Headquarter, Eastern Railway,
Kolkata

Residing at: 3/4, M. B. Road, P.O. & P.S. -
Bally, Howrah - 711201.

7. AJAY KUMAR RAI, Aged: 51 years S/O -
Late Braj Bilas Rai, presently posted as
Secretary to CCM/ Headquarter, Eastern
Railway, Kolkata.

Residing at: 30/24, Shibchandra
Chatterjee Street, Belur Math, Howrah -
711202.

8. SUDARSHAN PRAMANIK, Aged: 54 years
S/O - Sri Patit Paban Pramanik,
presently posted as Senior Assistant
Finance Adviser/Construction/Finance/
General, Eastern Railway, Kolkata.

Residing at: AD 390, Rabindra Pally,
Keshopur, Kolkata - 700101.

9. RAMLAL CHAKRABORTI, Aged: 49 years,
S/O - Late Gopal Das Chakraborti,
presently posted as Assistant Electrical
Engineer, General/III, Eastern Railway,
Sealdah.

Residing at: 105, M. C. Ghosh Lane, Flat -
4C, BIDISHA Apartment, Howrah - 700001.

10. ASHOKE KUMAR DAS, Aged: 56 years,
S/O - Late Kunjabehari Das, presently
posted as DSTE/CON/I, Eastern Railway,
Sealdah.

Residing at: 52, Rishi Bankim Chandra
Road, Behala, Kolkata- 700034.

..... APPLICANTS.

VERSUS

1. THE UNION OF INDIA THROUGH THE
CHAIRMAN, RAILWAY BOARD,
MINISTRY OF RAILWAY, RAIL BHAWAN,
NEW DELHI - 110001.
2. THE MEMBER STAFF, RAILWAY
BOARD, MINISTRY OF RAILWAY, RAIL
BHAWAN, NEW DELHI - 110001.
3. THE DIRECTOR ESTABLISHMENT
(GAZETTED CADRE), RAILWAY BOARD,
MINISTRY OF RAILWAY, RAIL BHAWAN,
NEW DELHI - 110001.
4. THE SECRETARY, RAILWAY BOARD,
MINISTRY OF RAILWAY, RAIL BHAWAN,
NEW DELHI - 110001.
5. THE SECRETARY (PERSONNEL),
MINISTRY OF PERSONNEL, P G AND
PENSIONS DEPARTMENT OF
PERSONNEL & TRAINING NORTH
BLOCK, NEW DELHI - 110 001.

-----RESPONDENTS.

**CENTRAL ADMINISTRATIVE TRIBUNAL
KOLKATA BENCH**

OA/350/486/2019
MA/ 425/2019

Date of Order: 17-2-19

Coram: Hon'ble Ms. Bidisha Banerjee, Judicial Member
Hon'ble Dr. Nandita Chatterjee, Administrative Member

Bhaskar Roy Choudhury & Ors. Vs. UOI & Ors.

For the Applicant(s): Mr. M.P.Dixit, Mr A.K.Khan, Counsel

For the Respondent(s): Mr. B.K.Choudhury, Mr. R.N.Bag, Mr. K.Sarkar, Counsel

ORDER

Bidisha Banerjee, Member (J):

Applicants, ten numbers, who admittedly belong to Group-B category in the Railways and are entitled to be promoted to Group-A, have preferred this O.A. to seek the following reliefs:

"8.1 That your Lordships may graciously be pleased to quash and set aside the impugned orders dated 10.03.2019 issued by the Respondent No.1 as contained in Annexure A/1 to A/8 being discriminatory and in violation of Article 14 and 16 of the Constitution of India.

8.2 That your Lordships may further be pleased to direct the Respondents to grant/accord promotion to the post in Senior Scale in favour of Group 'B' officers in Junior Scale on Ad-hoc basis against the vacant posts, without implementing the decision of (immediate/phaseswise) surrender of STS/Senior Scale Posts as per cadre review and the same should be regularized.

8.3 That your Lordships may further be pleased to direct the Respondents to issue promotion order in Senior Scale in favour of the Group 'B' officers belonging to 08 Organized cadre to the post in STS/Senior Scale henceforth w.e.f. the date of vacancy or the date of eligibility whichever is later, with all consequential benefits including arrears of salary and seniority.

8.4 That your Lordships may further be pleased to direct the Respondents to complete the badly delayed process of DPC of all the 05 vacancy years of all 08 organised services and issue the panel within next 03 months' time.

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8.5 Cadre restructuring for Group-B officers should be started immediately and shall be completed within a reasonable time frame.

8.6 Any other relief or reliefs including the cost of the proceeding may be allowed in favour of the applicants."

2. They are aggrieved as due to a cadre restructuring effected vide Railway Board's order No. 2016E(GC)16-9(Cadre Review) (Vol.III)(IRTS)(33) dated 09.03.2019 of Gazetted Cadre of Group-A Railway Service there has been a drastic reduction in the Senior Time Scale (STS, in short) posts. Board's order is extracted herein below for clarity.

भारत सरकार GOVERNMENT OF INDIA
रेल मंत्रालय MINISTRY OF RAILWAYS
(रेलवे बोर्ड RAILWAY BOARD)

New Delhi, dated 09.03.2019

2016E(GC)16-9(Cadre Review)(Vol.III)(IRTS)(33)

General Managers/Director Generals/Chief Administrative Officers,
Indian Railways/Production Units/Training Institutions.
Secretary, Railway Board.

Sub: Restructuring of Gazetted Cadre of Gr.'A' Railway Services- Indian Railway Traffic Service (IRTS).

The gazetted cadres as on 01.01.2015 of Group 'A' Railway Services of Indian Railways, Accounts Service (IRAS), Indian Railway Personnel Service (IRPS), Indian Railway Traffic Service (IRTS), Indian Railway Service of Engineers (IRSE), Indian Railway Service of Electrical Engineers (IRSEE), Indian Railway Service of Mechanical Engineers (IRSME), Indian Railway Stores Service (IRSS) and Indian Railway Service of Engineers (IRSSE) have been reviewed and approved by the Cabinet with a view to restructuring and strengthening the set-up to cope with the increased workload and responsibilities. It has been decided to restructure the Gazetted cadre of IRAS, IRPS, IRSE, IRSEE, IRSME, IRSS and IRSSE by reckoning 100% of Revenue posts and 25% of Work-charged posts as cadre strength. Out of the remaining 25% of work-charged posts, 705 posts will be surrendered so as not to adversely impact the present incumbents on these posts i.e. till the present regular incumbents on these posts are superannuated or promoted. Remaining 440 Work-charged posts would be assessed for continuance or phasing out over next five years. The total existing and revised cadre strength as on 01.01.2015 of 8 organised services and distribution of 25% of work-charged posts of each Railway service for the purpose of surrender and assessment are as under:-

Service/Grade	IRPS	IRTS	IRSS	IRSME	IRSEE	IRSSE	IRSE	IRAS	Total
Apex	1*	1**	1*	1**	1**	1*	1**	1	8
	(+1)	(+1)	(+1)	(+1)	(+1)	(+1)	(+1)	(0)	
MAG+	2	5	2	5	4	3	5	4	30
	(+1)	(+1)	(+1)	(+3)	(+3)	(+1)	(+3)	(+2)	
MAG+	18	42	29	50	42	39	85	40	345
	(+16)	(+13)	(+18)	(+16)	(+18)	(+23)	(+43)	(+10)	
SAG	65	163	114	202	171	155	333	129	1332
	(+11)	(+27)	(+27)	(+37)	(+40)	(+40)	(+89)	(+22)	
IRG	171	391	278	483	450	346	857	283	3261
IRPSG	(+5)	(-17)	(-16)	(-35)	(-5)	(-39)	(0)	(0)	

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-09/03/19

STS	110 (-85)	233 (-102)	118 (-121)	271 (-119)	186 (-177)	231 (-190)	382 (-534)	247 (-178)	1778
JTS	111 (0)	264 (0)	108 (0)	337 (0)	220 (0)	194 (0)	295 (0)	118 (0)	1647
Total	478 (-51)	1099 (-77)	650 (-90)	1349 (-97)	1074 (-120)	971 (-164)	1958 (-398)	822 (-144)	8401
Posts which are being upgraded	34	41	46	56	61	64	135	34	471
Posts proposed for tender more than one which are upgraded)	48	78	58	89	89	90	190	63	705
Posts to be phased over next 5 years	3	0	32	9	32	74	209	81	440

* Apex level post (upgraded from JAG/SG level) is already in existence after ACC's direction dt. 01.08.2016.

** Apex level post is already in existence after ACC's direction dt. 01.08.2016.

The cadre review of 8 organised Group 'A' service is subject to the following conditions approved by the Cabinet:-

For creation of Work Charged post below SAG level, MoR may seek approval of Finance Minister and for posts of SAG level and above, MoR may seek approval of Cabinet. However, to expedite the process for creation of Work Charged posts below SAG level, MoR and DoE may develop a fast track process within the contours of the proposed mechanism involving approval of Finance Minister.

Making the post of Member (Staff) a cadre post for IRPS.

Re-designation of the posts of Director General (Signal & Telecom) and Director General (Stores) as Member(S&T) and Member (Materials Management) and to encadre the posts for IRSSE and IRSS respectively;

Re-designation of the post of Director General (Personnel) as Director General (Personnel) to be manned by officers of Services directly involved in train operations, viz, S, IRSME, IRSSE, IRSEE and IRSE.

The number of General (ex-Cadre) posts should be frozen at current levels (i.e. more than 677, in any case)

Aravinda Arinche
09/03/19
09/3/19

Deputation Reserve at 5% of SDP will be created in each of the Services. This will be addition to the strength indicated above in table. Since the proposed cadre strength is approved by CRC does not include deputation reserve, same may be provided and above the strength of various cadres.

Bunching of recruitment should be avoided such that annual direct recruitment to Cadre is kept at 3 % of the Total Duty Posts.

While finalizing the Recruitment Rules (RRs) and giving promotions, residency as prescribed will be adhered to.

Assessment on continuance or phasing out of remaining 440 posts would be completed by the end of 4th year & thereafter the matter would be taken up with the Department of Expenditure (DoE) and Department of Personnel and Training (DoPT) for decision on continuance of these posts. In accordance with the recommendations of pending decision of DoPT and DoE, no fresh incumbents would be posted on these and these posts would be treated as frozen.

Normally additions to cadre by way of increasing the number of posts at different levels will be considered only in the course of a five year cadre review.

Attributes of Organised Group 'A' Service and general characteristics of Group 'A' will be strictly followed. The direct recruitment at JTS level should not be less than 50% in accordance with the attributes of Organised Group 'A' Service. There should be clear division of Group 'A' and Group 'B' post at JTS level and the list of officers at JTS level should be maintained separately. The existing methodology of grant of ad-hoc promotion of Group 'B' officer to Senior Scale post would be continued as an interim measure till 31.12.19 and thereafter no adhoc promotion to STS will be made.

The Cadre Review of Group 'B' and Group 'C' will be expedited.

Accordingly, the total sanctioned strength of IRTS Cadre as on 01.01.2015 would be as under:-

Grade	No. of posts
Apex (Level- 17)	1
HAG+ (Level- 16)	5
HAG (Level- 15)	42
SAG (Level- 14)	163
JAG (Level- 12)	391
STS (Level- 11)	233
JTS including Leave Reserve (Level- 10)	264
Total	1099

Cadre Review (Vol.III) (IRTS) (33) dt. 09.03.2019

CADRE RESTRUCTURING

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[Signature]
09/03/19
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Since the Respondents have decided to surrender STS posts in a large numbers, the applicants apprehend that their avenue of promotion would be seriously hampered and their chances of promotion will become grim and they shall have to superannuate in Group-B, Junior Scale posts. They have further lamented that the Respondents have wilfully delayed the process of DPC for

promotion of Group-B officers to Group-A in the garb of implementation of cadre review. The applicants feel aggrieved as they belong to Group-B in Assistant Scale, who acquire eligibility for promotion to Group-A, Jr. Time Scale (JTS, in short) upon completion of three years service in Group-B posts but because of insufficiency in the JTS Group-A posts in the cadre they are compelled to wait for 15-17 years to earn promotion to JTS Group-A. The alternative avenue of promotion to Sr. Time Scale/Sr. Scale Ad-hoc would also be hampered if such posts are surrendered arbitrarily in the fashion it has been done by the Board. They have, thus, alleged that the action of the Respondents, Ministry of Railway, is highly discriminatory and biased as the number of Sr. Scale posts has been increased in the Sr. Administrative Grade (SAG, in short), Higher Administrative Grade (HAG, in short), Higher Administrative Grade Plus (HAG+) and Apex Scale Posts and they have only decided to continue the existing methodology of grant of ad hoc promotion to Group-B officers to Sr. Scale posts as an interim measure till 31.12.2019. They have referred to a category of 08 organized cadre, i.e. Indian Railway Service of Engineers (IRSE, in short) where the sanctioned strength of Sr. Scale posts is 916 out of which 534 were surrendered retaining only 382 without any justification, cogent reasons and a plausible formula and, upon such surrender, they allege that surrender of additional posts of SAG have been done without any justification. Ld. Counsel for the applicants would vociferously argue that restructuring of a cadre ought to be done with some justification and not at the whims of officers at the higher echelons, who have the ability to influence the policy makers to adopt and modify a policy in their favour to provide them increased promotional opportunities annihilating the career progression of the officers at the lower echelons like the present applicants. In support, Ld. Counsel

for the applicant would invite us to following figures as extracted in Board's order dated 09.03.2019.

Service/ Grade	IRPS	IRTS	IRSS	IRSME	IRSEE	IRSSE	IRSE	IRAS	TOTAL
STS	110 (-85)	233 (-102)	118 (-121)	271 (-119)	186 (-177)	231 (-190)	382 (-534)	247 (-178)	1778

3. Confronted with the question that the magic figure of 916 does not tally with the figures shown with a minus (-) sign, Respondents have come up with the following table:

Services	Figures before cadre review							Figures after cadre review			Sr. Time Scale posts reduced
	Sr. Time Scale (STS) posts			Sr. Duty posts (SDP) i.e. STS scale posts and above.				Approved SDP	% of approved SDP for STS	Final approved strength (STS)	
	revenue	work-charged	Total	revenue	work-charged	75% of work-charged posts	Total				
	(A)	(B)	(C)	(D)	(E)	(F)	(G)=(D)+(F)	(H)	(I)	(J)=(H)-(I)	(K)=(C)-(J)
IRPS	77	118	195	212	206	155	367	367	30	110	85
IRTS	209	126	335	602	310	232	834	835	27.9	233	102
IRSS	82	157	239	272	360	270	542	542	21.8	118	121
IRSME	245	145	390	715	394	296	1011	1012	26.8	271	119
IRSEE	101	262	363	488	486	365	853	854	21.8	186	177
IRSSE	51	370	421	277	664	499	776	777	29.7	231	190
IRSE	62	854	916	466	1595	1196	1662	1663	23	382	534
IRAS	89	336	425	271	577	433	704	704	34	247	178
Total	916	2368	3284	3303	4592		6749	6754		1778	1506

* 1 existing General cadre post has been encadred. @ Approved by CRC and Cabinet.

As may be seen from the above table, Revenue posts in STS is 916 before cadre review. Work-charged posts are 2368 which by their very nature are not permanent and cease to exist on completion of the work. Cadre review is generally done by taking only revenue posts into account. However in the present cadre review exercise, Revenue + 75% of the Work-charged posts have been taken into account. Therefore against 916 revenue posts in STS pre cadre review, now there are 1778 revenue posts in STS post cadre review.

Armita Singh
25/06/19

The figure demonstrates and exemplifies that there has, in fact, been a drastic reduction in STS posts.

4. By way of written notes of arguments, the applicants have responded to the aforesaid chart. They have depicted pre and post restructuring figures as under:

No. of Posts	IRPS	IRTS	IRSS	IRSME	IRSEE	IRSSE	IRSE	IRAS	Grand Total
Proposed after restructuring	110	233	118	271	186	231	382	247	1778
Proposed for Surrender from existing posts	85	102	121	119	177	190	534	178	1506
Calculated number of Posts before restructuring	195	335	239	390	363	421	916	425	3284

5. Referring to the figures, the applicants have stated that the figures shows by Respondents cannot be correlated by the impugned orders. Taking 916 as revenue post, the workcharged post at present comes to $3284 - 916 = 2368$. 75% of this 2368 workcharged post comes to 1776. Then as per the written submission of the respondents the proposed cadre strength of STS should be $916 + 1776 = 2692$, which is much more than 1778 as shown in the impugned orders. This illustration puts a question mark on the sanctity of figure 916 as well as the figure 1778. Hence, the claim of the Respondent-Railways totally false, fabricated, imaginary and misleading. Revenue/workcharged is a concept for source of Fund to pay the salary/wages to the incumbent to the post. If the total number of posts in STS whether workcharged/revenue is reduced, the effect will be the same.

They have further elaborated that, Group-B officers upon completion of 3 years non-fortuitous service in Group-B, become eligible to be promoted to STS posts either by ad-hoc promotion from Group-B as per Rule 214 of Indian Railway Establishment Code (Volume-1) or, after being inducted to Group-A from Group-B through DPC conducted by UPSC. But, due to proposed surrender of STS posts in such large numbers, the Group-B alike applicants won't get promotion to Sr. Scale

as ad-hoc from Group-B or even inducted to Group-A, due to dearth of STS posts upon such surrender. They have alleged that the surrender of STS post in mass scale has been specially targeted to give Group-B officers an apartheid treatment, coupled with delay in holding DPC both for ad hoc promotion as well as induction to Group-A, by UPSC and that Group-B officers are waiting for those avenues for past 10-12 years and 15-17 years respectively. Due to inordinate delay in promotion due to insufficiency in the number of SS/STS posts, majority of Group-B officers retire as Group-B even after 12-15 years of service as eligible for promotion to STS posts.

The applicant would fumigate our mind with the following:

"a 'promotion' is important from stand point of individual member as it signifies;

A financial upgradation (more disposable income);

Higher responsibilities leading to greater job satisfaction and fulfilment; and

Improved social standing....."

Which is equally relevant for both Group-A as well as Group-B officers.

They have drawn our attention to para 2(xii) of the impugned order where it has been mentioned that "the cadre review of Group 'B' and Group 'C' will be expedited", which clearly indicates that cadre review of Group-B has not been done yet and they say that cadre restructuring of Group-B has never been done since 1986 whereas for Group-A it has been at least 4 times in past whereas DOPT's clear instructions are that cadre restructuring of Group-B is to be done before cadre restructuring of Group-A as evident from "Guidelines to be followed by Cadre Controlling Authorities while formulating proposals for cadre Review of

Group 'A' Services". They have referred to the documents in Annexure-P/4 & P/5, which shows that all the departments under the Central Govt. have concurrently reviewed and restructured the cadre of Group-B and Group-A. They would refer to the clause in para 2(xii) of the impugned order that "existing methodology of grant of ad hoc promotion of Group-B officer to Senior Scale post would be continued as an interim measure till 31.12.19 and thereafter no ad hoc promotion to STS will be made". They would allege that it has been deliberately done to hamper the career progression of Group-B. Hence, they would pray that the impugned orders of cadre restructuring of Group-A (Annexure-A/1) for eight organized services be quashed and to re-do the same after completing cadre restructuring of Group-B services. Applicants have pleaded that since the cadre review has not yet been effected, the same should not be effected.

6. The Respondents were asked to furnish the Recruitment Rule for the STS posts. They have furnished the following:

(i) A communication by Railway Board, dated 09.07.2019, which reads as under:

"For the purpose of restructuring, 100% Revenue (Col.D) + 75% workcharged (Col.F) of Senior duty posts ie. All posts STS and above were taken into account. The approved SDP as can be seen in Col.H is 6754. The CRC applied percentages of SDP for various services as given in Col.I and accordingly Column (J) shows approved number of STS posts which is 1778. Thus 916 STS Revenue posts before restricting have increased to 1778 posts after restructuring."

Which is again not corroborated by figures.

"Other points are clarified as under:-

(i) The applicants are Gr. 'B' offices and as per Recruitment Rules, Gr. 'B' officers of the eight organised services with 3 years of regular service in Gr. 'B' are eligible to be considered for promotion to Gr. 'A'/Jr. Scale.

- (ii) For promotion to Senior Time Scale, the eligibility criteria is, 'Officers in Junior Time Scale who have completed four years regular service in Gr. 'A' in level 10 of Pay Matrix.
- (iii) Yes, applicants can be considered against Revenue posts (STS and above) subject to fulfilment of eligibility criteria as mentioned in (i) and (ii) above."

(ii) Recruitment Rule of the Railway Service of the Mechanical Engineers manifests the following:

"xxx. xxx xxx

(2) The classification of, and the grades and scales of pay in the Service shall be as follows, namely:

(i) Junior Scale: Rs. 400-400-450-30-600-35-670-EB-35-950.

(ii) Senior scales: Rs. 700-(6th year and under)-40-1100-50/2-1250.

(iii) Junior Administrative Grade: Rs. 1300-60-1600.

(iv) Senior Administrative Grade: Rs. 1800-100-200-125-2250.

(3) Other conditions of service shall be as specified in appendix I to these rules.

xxx xxx xxx

PART III-Recruitment by Promotion

Recruitment by Promotion- (1) Appointments to the posts in the Junior Scale shall be made by selection on merit from amongst eligible Class II Officers (including officiating class II Officers) of the Mechanical Engineering and Transportation (Power) Department and of the Personnel Branch with not less than 8 years' service in the grade.

(2) Out of the 33 1/3 percent of the vacancies in the Junior Scale to be filled by departmental promotion, 29 1/3 percent shall be earmarked for officers of the Mechanical Engineering and Transportation (Power) Department and the remaining 4 percent shall be earmarked for officers of the Personnel Branch. These percentages are likely to be varied from time to time in consultation with the Commission.

(3) If the quota reserved for Class II Officers for promotion to the Junior Scale is not fully utilised, the remaining vacancies shall be filled by direct recruitment under

clause (...) of the Rule 4 and appointment of temporary Assistant Mechanical Engineers under clause (c) of that rule, in such proportion as may be decided by the Government in consultation with the Commission.

(4) Appointments to the posts in the Senior Scale shall be made by promotion in the order of seniority, subject to the rejection of the unfit, of officers ordinarily with not less than four years' service in the Junior Scale.

(5) Appointments to the Junior Administrative Grade shall be made by selection on merit from amongst the officers ordinarily with not less than five years' service in the Senior Scale.

(6) Appointments to the Senior Administrative Grade shall be made by selection on merit from amongst officers ordinarily with not less than five years' service in the Junior Administrative Grade.

(7) No officer shall have any claim to promotion to any class of the Service as of right.

(8) No officer shall be eligible for promotion to the Service unless the Government is satisfied that he is suitable for appointment to the Service in all respects.

(9) Notwithstanding, anything contained in rule 4, the posts in the Senior Scale, Junior Administrative Grade and Senior Administrative Grade to be filled by promotion, may, in exceptional cases, be filled by direct recruitment otherwise than through competitive examination, or by occasional recruitment from other sources, in consultation with the Commission."

Therefrom, the avenue of promotion of present applicants (Group-B) to STS via JTS is clearly evident.

(iii) Further, the Indian Railway Traffic Service Recruitment Rules, 1968, provides as under:

"PART IV- RECRUITMENT BY PROMOTION

22. Recruitment by promotion-(1) Appointments to the posts in the Class I (Junior Scale) shall be made by selection on merit from amongst eligible Class II officers (including officiating Class II officers) in the Transportation (Traffic) and Commercial Department and of the Personnel Branch of the

Indian Railways from Headquarters and Divisional Offices, ordinarily with not less than three year's service in the grade.

(2) Out of the 33-1/3 percent of the vacancies in Class I (Junior Scale) to be filled by departmental promotion, 29 -1/3 percent shall be earmarked for officers of the Transportation (Traffic) and Commercial Department and the remaining 4 percent shall be earmarked for officers of the Personnel Branch. These percentages are likely to be varied from time to time in consultation with the Commission.

(3) If the quota reserved for Class II Officers for promotion to Class I (Junior Scale) is not fully utilised, the remaining vacancies shall be filled by direct recruitment under clause (a) of Rule 4 and appointment of temporary Assistant Traffic Officers under clause (b) of that rule, in such proportion as may be decided by the Government in consultation with the Commission.

(4) Appointments to the posts in Class I (Senior Scale) shall be made by promotion in the order of seniority, subject to the rejection of the unfit of officers ordinarily with not less than four years' service in Class I (Junior Scale).

(5) Appointments to the Junior Administrative Grade shall be made by selection on merit from amongst the officers ordinarily with not less than five years' service in the Class I (Senior Scale).

(6) Appointments to the Senior Administrative Grade shall be made by selection on merit form amongst officers ordinarily with not less than five years' service in the Junior Administrative Grade.

(7) No officer shall have any claim to promotion to any class of the Service as of right.

(8) No officer shall be eligible for promotion to the Service unless the Government is satisfied that he is suitable for appointment to the Service in all respects.

(9) Notwithstanding, anything contained in rule 4, the posts in Class I (Senior Scale), Junior Administrative Grade and Senior Administrative Grade, to be filled by promotion, may, in exceptional cases, be filled by transfer, or by direct recruitment otherwise than through competitive examination, or by occasional recruitment from other sources, in consultation with the Commission."

The Recruitment Rules establish the claim of the applicants about their apprehension.

B

7. Ld. Counsel for the Respondents, at hearing, would vehemently oppose the claim of the applicants by stating that the applicants, who belong to Group-B category do not have any *locus standi* to challenge the cadre restructuring since they do not even belong to feeder category to Group-A, the lowest entry level of Group 'A' being that of JTS. However, they have admitted that there exists two sources of recruitment at the level of JTS, one being that of direct recruitment through open competitive examination conducted by UPSC and the other through promotion from Group-B cadre by a DPC conducted under the chairmanship of UPSC and that a Group-B officer, who is assessed and considered fit by the UPSC is eligible to be promoted as Group-A.

The avenue of promotion of the present applicants (Group-B) to STS via JTS being evident, and the drastic curtailment in promotional post being admitted, it can only be gainsaid that the applicants would not be prejudiced. The plea that they don't have *locus standi* is therefore rejected.

Respondents have further mentioned that cadre review encompasses several key elements of cadre management such as manpower projection, recruitment planning, training, deputation, etc. It helps realign a service to the ever changing organizational needs and maintain congruence between functional needs and legitimate aspirations of the officers. In view of the high importance attached to the exercise, the Cadre Review Committee, which finally examines the proposal and gives its recommendations, is headed by the Cabinet Secretary. The Cadre Review Proposal is initially prepared by the Cadre Controlling Authority in the form of a Note for Committee of Secretaries. DoPT then obtains the approval of Secretary (P) and refers it to Department of Expenditure for approval of Secretary (Expenditure). The Note is then placed before the Cadre Review

Committee by DoPT. Based on the recommendation of the Cadre Review Committee the proposal is submitted to DoPT for approval. Upon its approval it is referred to the Department of Expenditure for approval. The Cadre Controlling Authority (Ministry) thereafter submits it for final approval of the Cabinet.

Respondents have averred that in keeping with the imperative need to restructure the cadre of 8 organised Group-A services for fulfilling the challenging tasks and responsibilities thrown up by enormous growth in traffic and functional requirement of the Services, and while emphatically admitting that for genuine career aspirations of members of the Services, have averred cadre review proposals of 8 organized services linking model cadre structure at Zonal and Divisional level with workload index were deliberated upon at length in consultation with DoPT and DoE. Thereafter, the final proposals as per the above procedure were submitted to DoPT in the form of Note for the Committee of Secretaries on 10.06.2014 (IRTS), 09.09.2015 (IRPS), 11.09.2015 (IRSS), 15.09.2015 (IRAS), 07.12.2016 (IRSE, IRSEE), 09.12.2016 (IRSME) and 13.12.2016 (IRSSE).

The Respondents have clarified that the DoPT after detailed examination and approval by Secretary (Personnel) forwarded the proposal to Department of Expenditure, Ministry of Finance. After the proposal was approved by Secretary (Expenditure), it was placed before the Cadre Review Committee (CRC) headed by Cabinet Secretary on 19.04.2018. From the Railways side, Chairman Railway Board and Member Staff, Railway Board, attended the meeting. On the basis of recommendations of the Committee, a draft cabinet note was prepared and a copy (each) was sent for Inter-Ministerial Consultations to the Department of Personnel and Training (DoPT), Ministry of Finance (MoF) and Prime Minister's Office on 01.08.2018. The final Cabinet Note for Cadre Review of 8 organized

Group 'A' Railway Services in line with Cadre Review Committee's recommendations was submitted with comments of the Ministry of Finance and the DoPT for approval of the Cabinet on 27.1.2019 and approval of the Cabinet was received on 19.02.2019. All the proposals for Cadre Review have been examined and deliberated at length by multiple bodies at the highest level in Govt. of India and to call these deliberations as arbitrary and infested with vengeance is totally a prejudiced view point. All the impugned 08 orders conveying sanction of the Cadre Review have been issued strictly in accordance with the approval accorded by the Cabinet.

Respondents have further attempted to clarify that "there is no reduction in regular senior scale posts" and that the apparent reduction in the number of posts (mainly in Senior Scale) in the ongoing Cadre Review exercise was not on account of meeting the cost of upgradation (Financial Neutrality). On the contrary, due to taking into account 75% of workcharged posts now converted to revenue, against 3303 number of revenue posts before cadre review, there would now be 6754 revenue posts (an increase of 3451 posts) and that in fact, the number of Senior Scale revenue posts was also slated to increase from 916 to 1778 (an increase of 862). Thus, there was no net reduction of revenue posts, rather in fact, there was an increase in the Revenue Posts. Respondents have furnished in a tabular form of the number of Revenue Posts, pre and post restructuring as below:

Grade	Pre restructuring	Post restructuring
Apex	1	8
HAG+	15	30
HAG	117	345
SAG	696	1332
JAG	1558	3261
STS	916	1778
SDP	3303	6574

JTS	1647	1647
TOTAL	4950	8401

They have submitted that in addition to the benefit of increase in number of revenue posts (on account of including/converting 75% of workcharged posts), the Cabinet approved reasonable protection to the Senior Scale officers. Against a required total surrender of 1145 posts, only 705 posts were to be surrendered immediately and if such posts were not immediately vacant, they would cease to exist once the present incumbent vacated the post. No fresh posting, however, was to be made against such posts. While no fresh postings could be made on the remaining 440 posts, such posts would continue to exist and would be assessed for continuance or for phasing out after 4/5 years in consultation with DoPT.

Respondents have denied and disputed the submission of the applicant that DPC has not been held timely.

8. We heard Ld. Counsels for the parties and perused the materials on record. We considered their rival submissions and written notes of arguments.

9. At hearing, on 21.06.2019, when confronted with the question about clarifying the figure of 916, which did not tally with the figures shown as curtailed from existing STS with a Minus (-) sign, Respondents produced a chart as reflected supra, which we find as not a satisfactory clarification. Therefore, we are still in doubt about increase in number of posts in STS category since it is evident from restructuring order itself that out of available 3284 STS posts alone, 1506 have been surrendered and the balance is only 1778. In our considered opinion, the hierarchy should go according to a pyramid, i.e. the lower level posts should be more in number compared to the higher level posts. Here, we find that STS posts

are 1778 post-restructuring whereas JAG/NFSG are 3261, the higher level posts, which can hardly be comprehended or countenanced.

10. Nevertheless, given our dissatisfaction, at hearing, Ld. Counsel for the Respondents, Mr. B.K.Choudhury, would assert and assure that despite such drastic reduction in STS posts, the applicants would still be able to gain promotion to the next level and their promotional chances would not be affected since the number of posts at their promotional level, i.e. JTS is less than that of STS. Therefore, JTS would gain promotion to STS leaving JTS posts vacant for the applicants who aspire for promotion to JTS. In view of such assertion and asseveration, by way of pleadings as well as assurance at the Bar by Ld. Counsel Mr. B.K.Choudhury appearing for the Respondents, we give liberty to the applicant to prefer comprehensive representation within two weeks to the Board, if they still feel aggrieved due to curtailment of the their promotional avenue, which if preferred should be disposed of within 1 month, and permit the authorities to go ahead with the cadre restructuring (which was never formally restrained), which shall, however, be subject to the outcome of the disposal.

We also strongly feel that the promotion of Group 'B' Officers should be held at the earliest and cadre restructuring for them should be undertaken, to ameliorate their grievance suitably.

11. Before parting, we would like to record that after 21.06.2019, the matter was once again listed under the heading "for being spoken to" when the Respondents, being represented by Mr. Kalyan Sarkar, Standing Counsel, was requested to furnish the recruitment rules for Group-B posts as well as STS.

Despite repeated requests the Recruitment Rules were not supplied to Ld. Standing Counsel, by the Railway officers on time.

12. O.A., as well as M.A., stand disposed of accordingly. No costs.

(Dr. Nandita Chatterjee)
Member (A)

(Bidisha Banerjee)
Member (J)

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