

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAIORIGINAL APPLICATION NO.505/2012
and
ORIGINAL APPLICATION NO.380/2013This the 19th day of July, 2019CORAM:- R. VIJAYKUMAR, MEMBER (A).
R.N. SINGH, MEMBER (J).

(Applicants in OA No.505/2012)

1. Sh. Sunilkumar D. More,
Aged 41 years,
Working as Junior Engineer,
Gr.II, Central Railway,
Matunga Workshop,
Matunga, Mumbai-400 019,
Residing at Room No.103,
D-Wing, Mangeshi Dream City,
Bldg. No.2, Adharwadi,
Kalyan (West) Pin-421 301.
2. Sh. Rajendrakumar Y. Patil
Age 49 years, working as
Junior Engineer, Gr.II, Central
Railway, Matunga Workshop,
Matunga, Mumbai-400 019,
Residing at R.No.2 Keni Wadi Kawale,
House Lt, Dilip Gupte Road,
Mahim Mumbai-400 016.
3. Sh. Nandkishor S. Manjrekar
Age 44 years, working as
Junior Engineer Gr.II,
Central Railway, Matunga
Workshop, Matunga, Mumbai-400 019,
Residing at 502, Sai Sastha,
Heinght Jamil Nagar,
Bhandup (W), Mumbai-400 078.

...Applicants.

(By Advocate Sh. S. V. Marne)

Versus

1. The Union of India
Through the General Manager,
Central Railway,
Head Quarters Office,
CST, Mumbai-400 001.
2. The Chief Workshop Manager,
Central Railway,
Matunga Workshop,
Mumbai-400 019.

... Respondents.

(By Advocate Sh. V. S. Masurkar)

and

(Applicants in OA No.380/2013)

1. Vivek Babanrao Mohite,
son of babanrao Tatoba Mohite,
Age 46 years, working as:
Firtter Grade-I, with
Central Railway, Carriage Workshop,
Matunga, Mumbai, and residing at
MS/RB/II/19-17 Railway Quarters,
Sion-Koliwada, GTB Nagar,
Mumbai-400 037.
2. Prassanna Vithoba Chavan
son of later Vithoba Anant
Chavan, age 41 years, working
as" Technician Grade-II,
with O/o Chief Works Manager,
Carriage Work-Shop of Central
Railway, Progress Office,
Matunga, Mumbai and residing at:
E-201, Shantivan Tower CHS,
Near Rutu Park, Kothare Baug,
Castle Mill, Thane (west),
Pin Code 400 601.
3. Shyam Sadashiv Patil,
son of Sadashiv Yashwant Patil,

age 48 years, working as: Welder-II,
with Chief Works Manager,
Carriage Workshop of Central
Railway, EMU Rehar, Matunga, Mumbai
and residing at: 29/43, Gaodevi
Darshan R.No.106, Iind Koliwada Marg,
Dockyard Road, Mazgaon (East),
Mumbai-400 010.

... Applicants.

(By Advocate Sh. R. G. Walia)

VERSUS.

1. The Union of India
Through the General Manager,
Central Railway,
Head Quarters Office,
CST, Mumbai-400 001.
2. The Chief Workshop Manager,
Central Railway,
Matunga Workshop,
Mumbai-400 019.
3. Sh. Sunilkumar D. More,
age 41 years, working as Junior
Engineer, Gr-II, Central Railway,
Matunga Workshop, Matuga
Mumbai-400 019 and residing at
Room No.103, 'C' Wing, Mangeshi
Dream City, Building No.2,
Adharwadi, Kalyan (West),
Pin-421 301.
4. Sh. Rajendrakumar Y. Patil,
Age 49 years, working as Junior
Engineer, Gr-II, Central Railway,
Matunga Workshop, Matunga Mumbai-400 019
and residing at Room No.2, Keni Wadim
Kawale House Lt., Dilip Gupte Road,
Mahim, Mumbai-400 016.
5. Sh. Nandkishor S. Manjrekar

Age 44 years, working as Junior Engineer, Gr-II, Central Railway, Matunga Workshop, Matunga Mumbai 400 019 and residing at 502, Sai Sastha Heights, Jamil Nagar, Bhandup (W), Mumbai-400 078.

6. The Chief Personnel Officer, Central Railway, Headquarters Office, CST, Mumbai-400 001.
7. The Railway Board, through its Secretary/ Chairman, Railway Bhawan, New Delhi-110 001.

... Respondents. (By
Advocate Sh. V. S. Masurkar and Sh. S. V. Marne)

O R D E R (O R A L)

Per: R.N. Singh, Member (Judicial)

1. When the cases were called out, Sh. S. V. Marne, learned counsel appeared for the applicants in OA No.505/2012. Sh. R. G. Walia, learned counsel appeared for the applicants in OA No.380/2013. Sh. V. S. Masurkar, learned counsel appeared for the official respondents in both the OAs. Sh. S. V. Marne, learned counsel appeared for the private respondents in OA No.380/2013.

2. Heard the learned counsels for the parties.

3. The OA No.505/2012 has been filed by the

applicants, three in numbers challenging the letter/order dated 07.09.2012 (Annexure A-1) vide which 07 persons have been empaneled to the post of JE-II, provisionally, purportedly in compliance of the directions of this Tribunal in OA No.516/2008 filed by Sh. M. A. Shaikh & V. K. Sawant.

4. In response to the notice issued by this Tribunal the respondents have filed written statements. However, after completion of pleadings the respondents in the aforesaid OA No.505/2012 have filed MA No.401/2013 and have prayed therein as under:-

"(i) Permitting the withdrawal of letter dated 07.09.2012 which is already stayed by court.

(ii) Any other order as the Hon'ble Tribunal deems fit and proper in the facts and circumstances of this case."

5. The applicants in OA No.380/2013 have filed the reply to such MA and have objected to the prayer of the respondents made in such MA and have prayed therein for dismissal of the MA with cost.

6. The applicants three in numbers, have filed the OA No.380/2013 seeking declaration to the effect that the order dated 07.09.2012 to the extent it is challenged as specified in para-1 of the original application, is illegal and hence has prayed to quash and set aside the same. The applicants have also prayed to hold and declare that there was no need to issue the impugned order dated 07.09.2012 to the extent it is challenged and also for the directions of the respondents to promote them as per the revised panel for the post of Junior Engineer Grade-II with all the consequential benefits.

7. We have heard the learned counsels for the parties. There is no dispute that in both the aforesaid OAs, the substantial issue involved is challenge to the aforesaid letter/order dated 07.09.2012 vide which the respondents have passed a panel for the post of JE-II provisionally.

8. Sh. R. G. Walia, learned counsel for the applicants in OA No.380/2013 submits that the impugned order/letter dated 07.09.2012 is in pursuance of the directions of this Tribunal in

OA No.516/2008 and as per the applicants the same is in-accordance with rules. However, it is not disputed by him that the applicants in OA No.380/2013 have challenged the same letter/order dated 07.09.2012 which has been challenged by the applicants in OA No.505/2012 also. He further submits that though the applicants have not indicated in the prayer in OA No.380/2013 that their challenge to the letter/order dated 07.09.2012 to a particular extent, however, the prayer 8(A) of this OA should be read with para-1 of the OA wherein the applicants have stated that they have challenged the said letter/order dated 07.09.2012 only to the extent the same contains as "in view of the above it is to advise you that the above panel will be declared by deleting your name after 05 weeks from the date of receipt of this letter if no stay order is obtained by you from the competent court and you will be reverted to your substantive post."

9. Be that as it may. The fact remains that the impugned letter/order dated 07.09.2012 is a provisional panel prepared by the respondents

department(s) for the post of JE-II. In view of this it is always open for the respondents to revisit the same by withdrawing the same. Needless to say that the same shall be issued in compliance of the directions of this Tribunal in OA No.516/2008 in its true letter and spirit as the impugned letter/order dated 07.09.2012 appears to have been issued purportedly in compliance of the direction of this Tribunal in OA No.516/2018.

10. In view of the above, the aforesaid MA No.401/2013, filed by the respondents in OA No.505/2012 for permission to withdraw the letter/order dated 07.09.2012, impugned in the aforesaid two OAs deserves to be allowed. Hence we order accordingly. Accordingly, the aforesaid OAs become infructuous and are disposed of accordingly. All pending MAs stand disposed of.

11. At this stage, Sh. R. G. Walia, learned counsel for the applicants in OA No.380/2013 submits that this OA is required to be decided on merit. We have considered this aspect. We find that once in the aforesaid two OAs the

applicants' basic challenge has been to the impugned order/letter dated 07.09.2012 and admittedly the order/letter dated 07.09.2012 is of provisional in nature and the respondents want to withdraw the same to issue an appropriate panel afresh, we are of the considered view that the request of Shri R. G. Walia is devoid of any merit. Accordingly, such prayer of Sh. R. G. Walia is rejected.

12. In view of the above, the aforesaid two OAs stand disposed of. No order as to costs.

(R. N. Singh)
Member (J)

(R. Vijaykumar)
Member (A)

V.

JD
16/3/19

