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**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

O.A. NO. 2661/2003

New Delhi, this the 30th day of December, 2003

**HON'BLE MR. V.K. MAJOTRA, VICE CHAIRMAN (A)
HON'BLE MR. BHARAT BHUSHAN, MEMBER (J)**

1. Vijayender Singh
2. Subey Singh
3. Arun Kumar Malik
4. Vijay Singh
5. Ramesh Chand
6. Satish Kumar
7. Dharam Pal Singh
8. Rajesh Dhayia
9. Manjeet Singh
10. K. Pal Meena
11. Manoj Kumar Gaur
12. Agnee Vesh
13. Chandesh Kumar
14. Suresh Chand Saini
15. Manmohan Singh

(Applicants No. 1 to 11 - Railway Protection Force, Company No. 59, Daya Basti, Delhi)

(Applicant No.12 - Railway Protection Force, Company No.12 Old Delhi)

(Applicants No. 13 to 15 - Railway P.F. Co. No.22, DKZ) . . . Applicants
(By Advocate : Shri B.S. Mainee)

Versus

1. Union of India
Through The Secretary,
Ministry of Railways,
Rail Bhawan, New Delhi
2. Railway Board,
Through The Chairman,
Rail Bhawan, New Delhi
3. General Manager,
Northern Railway,
Baroda House, New Delhi

(By Advocate : Shri V.S.R. Krishna) . . . Respondents



O R D E R

BY BHARAT BHUSHAN, MEMBER (J):

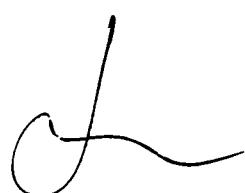
Applicants have challenged Annexure A-1 dated 11.8.2003 issued by the Railway Board (Respondent No.2) wherein it is stated that RPF/RPSF personnel cannot be allowed to appear in Group Departmental Competitive Examinations (in short GDCE) for appointment/promotion to posts in Departments other than RPF/RPSF in the Railways. It was further stated in the said order that they will also not be eligible to appear in other Departmental selections in Departments other than RPF/RPSF. However, it is also mentioned that the past cases decided otherwise will not be reopened.

2. The applicants, who are working as Constables in RPF/RPSF, have sought quashing of the aforesaid letter dated 11.8.2003 and a direction to the respondents to consider the applicants as well for the post of Junior Cashier by permitting them to appear in the written test which was to be held on 4.11.2003. It is also urged that on earlier occasions too Constables had been permitted to appear in such examinations.

3. The respondents while opposing the plea of the applicants have submitted that by issuance of the internal correspondence/ policy decision as has been done by the respondents, no cause of action accrues to the applicants for filing the present application. The respondents have further stated that the applicants have already been issued communication dated 24.10.2003 vide which they have been



informed that Railway Protection Force/Railway Protection Special Force (hereinafter referred to as RPF/RPSF) personnel are not eligible to appear in the selection to the post of Junior Cashier (scale Rs. 4000-6000), but the applicants have not so far challenged the said order. The respondents main contention is, that the RPF/RPSF personnel are combatised personnel and they have been inducted specifically to look after the security of the Indian Railways and the mode of their selection and training is tailor-made for the said purpose only and the decision now formally taken debarring them to participate in the selections being held for promotion to posts outside RPF/RPSF was in conformity and in line with the pattern being followed in other Central Police Forces as advised by the Ministry of Home Affairs. Even otherwise, according to them, the applicants being from the combatised cadre cannot be shifted to administrative/ministerial cadre outside RPF/RPSF and hence the decision taken by them was in conformity with the overall policy of the respondents. They have further contended that even the notice for selection issued (Annexure R-2) would show that the same has not been circulated to the Offices of RPF or to the Offices of RPSF because the members of the disciplined Force are not expected to participate in the examinations held for the selection to the post of Junior Cashier. While admitting that prior to the year 1997-98 some member of the RPF/RPSF had participated in the departmental examinations for the post of Junior Cashiers, it is contended that it was on account of some inadvertent mistake on the part of the respondents, but this act in itself do not confer any right

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on other ineligible members of the Force to appear in the examination.

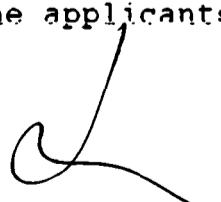
4. The learned counsel for the applicants, drawing our attention to para 170 of the Indian Railway Establishment Manual (TREM) (Annexure A-2), has submitted that the staff of Accounts Department and other Departments having a minimum of 5 years service are stated to be the eligible candidates for the posts in the category of Junior Cashiers. The contention of the learned counsel for the applicants is that the applicants belonging to the RPF/RPSP service come within the definition of other Departments as mentioned in Para 170 of the TREM. So, according to him, they are eligible to appear in the examination. He has also pointed out that on certain previous occasions as well the respondents had permitted Constables of RPF to appear for selection in the category of Junior Cashier and in this regard he has referred to Annexure A-3 dated 11.12.2001, which is a list of selected candidates on the panel of cashiers as a result of written and viva-voce tests held earlier in the year 2001. His further submission is that the said Para 170 does not impose any embargo on the RPF staff as not to permit them to appear in the selections for the posts in other Departments of the Railways. Hence his submission is that a valuable fundamental right of the applicants to appear in the examination is being arbitrarily and illegally taken away by the respondents without giving them any show cause notice. Hence this act of the respondents, according to the learned counsel, is illegal and against the principles of natural justice.



5. While repelling the arguments of the applicants, the learned counsel for the respondents has, at the first instance, submitted that the examination in the instant case has already been taken place as far back as on 4.11.2003 and even the supplementary examination for those candidates reporting sick under authorised Railway Medical Officer has also been taken place and as such the procedure for selection has been completed, so no cause of action now remains in favour of the applicants. Countering the other arguments of the applicants that they come within the meaning of other Departmental staff as contained in Para 170 of the IREM, the learned counsel has submitted that the RPF/RPSF is a totally different entity and they are not the other Departmental staff as envisaged in para 170 of the IREM. His contention is that the purpose and object of creation of a special Force and the training imparted to the members of such a Force does not permit them to change their status from that of combatised members to ministerial staff of the Railways and otherwise also it is not in the administrative or public interest that the members appointed after a stringent training are allowed to migrate to administrative jobs.

6. We have considered the rival contentions and have perused the materials on record.

7. After a careful perusal of para 170 of IREM, we are of the considered opinion that RPF/RPSF cannot be said to be covered within the meaning "other Department staff". We are inclined to agree with the contention of the respondents that the applicants are part of a combatised Force created

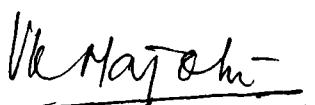
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specifically to look after the security needs of the Indian Railways and the mode of their selection and training has also been conducted in that direction only. Thus, creation of such posts appears to be totally unrelated to the ministerial needs. Admittedly, the applicants had joined the Force and underwent special training with the full knowledge and intent to remain as members of the combatised Force only and not to migrate to ministerial cadre. Undoubtedly, as admitted by the respondents as well, on certain earlier occasions some members of the RPF/RPSF staff had participated in the departmental examinations for the post of Junior Cashier, but we tend to agree with the arguments of the respondents that, that by itself does not confer any right on otherwise ineligible members of the Force to appear in the examination because the applicants have not been able to produce before us any rules to show that they are entitled as a matter of right to appear in the examination for the post of Juninor Cashier.

6. In view of the aforesaid discussions and the fact that the present selections have already been conducted on 4.11.2003 and even otherwise also there being no merit in the case of the applicants, the OA is dismissed with no order as to costs.



(BHARAT BHUSHAN)
Member (J)



(V.K. MAJOTRA)
Vice Chairman (J)

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