

**CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH, AHMEDABAD**

O.A. No. 450/2019 with MA No.464/2019

This the 10th day of December, 2019

1. Pramod Kumar Singh
Age : 39 years (DOB being 05.01.1980)
Son of Shri Baban Singh
Presently serving as Senior Section Engineer, P.Way, PRJ
under the SSE(P.Way), HMT of Ahmedabad Railway
Division of Western Railway Zone
Address for Communication :
Flat No.B, Akar 'B'
Srinagar Society, Opp. My Life Hospital
Kalol 382 721. Gandhinagar.
2. Sanjeev Kumar Singh
Age : 36 years (DOB being 05.2.1983)
Son of Shri Hemant Prasad Singh
Presently serving as Senior Section Engineer, P.Way, DHG
Under the SSE(P.Way), DHG-II of Ahmedabad Railway
Division of Western Railway Zone
Address for Communication :
Quarter No.101, Home Town-4,
Near Dharti Road, IOC-Tragad Road,
Chandkheda, Ahmeadbab, 382 470.
3. Santosh Kumar
Age : 35 years (DOB being 05.08.1984)
Son of Shri Ram Niwas
Presently serving as Senior Section Engineer, P.Way, CHIB,
Chirai Under the SSE(P.Way), BCOB of Ahmedabad
Railway
Division of Western Railway Zone
Address for Communication :
House No.3, Narayan Homes
Ucharpi Road, (Near Parth City)
Near Sai Baba Mandir,
Post : Mehsana 384 001, Gujarat.
4. Uma Shankar Ravi
Age : 39 years (DOB being 01.1.1980)
Son of Shri Rajan

CAT, Ahmedabad Bench

Presently serving as Senior Section Engineer, P.Way, (LR)PTN under the SSE(P.Way), Patan of Ahmedabad Railway Division of Western Railway Zone

Address for Communication :

House No.143, JEEL Residency,
Near Railway Crossing (LC No.42)
Patan 384 265. Gujarat

5. Navik Shivanandan

Age : 44 years (DOB being 31.5.1975)

Son of Shri Hari Ram

Presently serving as Senior Section Engineer, P.Way, (LR) AAR under the SSE(P.Way), AAR of Ahmedabad Railway Division of Western Railway Zone

Address for Communication :

No.42, Varahi Society
'D' Cabin, Kali, Ahmedabad 380 019.

6. Jagdishkumar Bhikhabhai Parmar

Age : 49 years (DOB being 05.02.1970)

Son of Shri Bhikhabhai Parmar

Presently serving as Senior Section Engineer, P.Way, (W/C), ADI under the SSE(P.Way), ADI of Ahmedabad Railway Division of Western Railway Zone

Address for Communication :

No.C-1, Harimilan Tenament,
Behind Visat Mata Mandir

Taluka & District : Gandhinagar-382 421.....Applicants

(By Advocate : Shri M.S.Rao)

VERSUS

1. Union of India,
(Notice to be represented through Special Secretary to the Govt. of India & the Ex.Officio Chairman, Railway Board,
Ministry of Railways,
Rail Bhavan, New Delhi 110 001.
2. Western Railway
(to be represented through its General Manager (E)
Western Railway, Zone, Office of the General Manager (E)
W. Rly. Hqrs. Office, Churchgate, Mumbai 400020.
3. The Divisional Railway Manager (E),
Ahmedabad Railway Division

CAT, Ahmedabad Bench

Western Railway Zone,
O/o. DRM (E), ADI,
Near Chamunda Mata Bridge, Naroda Road,
Ahmedabad 380 025.

4. The Senior Divisional Engineer (CO) & (E)
Ahmedabad Railway Division
Western Railway Zone,
O/o. Sr. DEN (CO) & (E), ADI,
Ahmedabad Railway Divisional Office
Near Chamunda Mata Bridge, Naroda Road,
Ahmedabad 380 025. Respondents

ORDER (ORAL)

Per : Hon'ble Shri M.C.Verma, Judicial Member

The OA, which has been preferred jointly by six applicants, with MA for joint application is at motion hearing stage. Applicants as per pleadings were promoted to the post of Senior Section Engineer (SSE) (PW) and vide impugned orders, Annexure A/1 to Annexure A/6, each of 29.11.2019 & addressed separately to each applicant, respondent informing that they were not eligible and their name require deletion from panel of promotion were given opportunity to submit representation within fifteen day have been impugned in the OA.

2. Learned counsel Shri M.S.Rao Advocate, appearing for applicants submitted that applicants, being aggrieved by impugned show cause notice have jointly approached this Tribunal by filing single OA and that MA No.464/2019 for Joint Application has also been preferred as all the applicants have common cause in filing the

OA and their interest to agitate the OA is also same. He requested that MA No.464/2019 may be allowed.

3. Pressing the OA, learned counsel urged that as per settled seniority list applicants, Nos.1 to 3 were promoted to the post of Senior Section Engineer (SSE) (PW) in year 2015 and applicant Nos.4 to 6 were promoted to the said post in September 2019. That for promotion purpose applicants were found eligible as per settled seniority list and only then they were promoted to said post. That respondents for the reason best known to them, now on 28.11.2019 have notified a draft seniority list and applicants have illegally been shown at lower position in said draft seniority list. That while notifying the said draft seniority list opportunity has been given to the affected persons to submit representation, if they wish so, within one month from the date of issuance of said notification and time to make representation has not yet expired.

4. Learned counsel also contended that without waiting for representation till expiry of time given to represent against draft seniority list, decision on representation, if any is submitted and to finalise the seniority list, respondents simultaneously have also issued show cause notices to the applicants conveying their intent that applicants were not eligible for promotion to the post of Senior Section Engineer (SSE) (PW), that it has become necessary to revise/ modify the panel and their name require to be deleted from

panel of promotion and that applicants have been given opportunity to submit representation within fifteen days.

5. Learned counsel also urged that Para 219(1) of IREM Volume-I has instruction of the Railway Board and it provides that for procedural irregularities or other defects after formation and announcement of the panel with the approval of the competent authority, it can only be cancelled or amended after obtaining the approval of the authority next higher than the one that approved the panel but in instant case no approval of the next higher authority is there and the show cause notice has been issued by the authority who has previously approved the panel. Learned counsel drew the attention of undersigned to said Para 219(1) of IREM, copy of which is at Annexure A-30 which reads: *“if after the formation and announcement of the panel with the approval of the competent authority, it is found subsequently that there were procedural irregularities or other defects and it is considered necessary to cancel or amend such a panel, this should be done after obtaining the approval of the authority next higher than the one that approved the panel”*.

6. In answer to question put to him that indisputably only a show cause notice, with opportunity to represent has been given so whether it would not be appropriate for applicants to first represent before the departmental authority taking the contentions which they are raising herein and whether this OA is not premature one; learned counsel

answered that apprehension is there that respondent authority would pass order abruptly and would implement the same immediately leaving no scope for applicant to approach the judicial forum to get the order stayed.

7. Shri M.J.Patel, Advocate, who is representing respondent Railways Department in other cases is present in Court, he was requested to appear and to assist. He was given copy of the OA and after having gone through the same he also submits that applicants have been given show cause notice only, they are at liberty to represent and they can take all these contentions which are being raised herein in their representation and respondent authority would pass rational order thereon.

8. As all the applicants have common cause in filing the OA and their interest to agitate the OA is also same, hence, **MA No.464/2019 stands allowed.**

9. Having considered the submissions and in interest of justice, this OA is disposed of at the admission stage itself with observation that by show cause notices, annexed as Annexure A/2 to A/6 & impugned in the OA, applicants have been given opportunity to submit representation and they, if wish may submit representation in given time frame taking plea which they wants to take. Learned counsel Shri M.S.Rao submits at this stage that applicant would prefer reply to said show cause notice on or before stipulated date.

10. Taking note of entirety respondents are directed that if representation is submitted by applicants, in given time frame, their representation be decided first by passing a speaking order and the order so taken be communicated to the applicants. Needless to say that the decision to delete or not to delete the name of applicants from Panel of promotion would be according to outcome of the decision on representation/ representations. Respondents are directed further that if according to outcome of the decision on representation/ representations they took decision to delete the name of applicants from panel of promotion then the execution of the decision, to enable the applicants to agitate the same before appropriate authority/forum be kept in abeyance for ten days, after communications of order passed on representation to the applicants.

11. With aforesaid observations & directions, OA stands disposed of. No order as to costs.

(**M.C.Verma**)
Member (J)

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