
(2023) 05 CAT CK 0049

In the Central Administrative Tribunal

Case No : Original Application No. 200, 451 Of 2021

Prashant Giri & Ors

APPELLANT

Vs

Union Of India & Ors

RESPONDENT

Date of Decision : 16-05-2023

Acts Referred:

Constitution Of India, 1950 — Article 14

Citation : (2023) 05 CAT CK 0049

Hon'ble Judges : Akhil Kumar Srivastava, Member (J); Kumar Rajesh Chandra, Member (A)

Bench : Division Bench

Advocate : Lavanya Verma, P.K. Chourasia, D.P. Pandian, Ajay Pratap Singh, Dharmanshu Singh

Final Decision : Dismissed

Judgement

Kumar Rajesh Chandra, Member (A)

1. By this O.A., the applicants, 36 in numbers, have assailed the notification dated 11.3.2020 to the effect that Safaiwala, Bridge Guard, Chowkidar, Cook etc. have been called for selection process for promotion to the post of Technician-III (Track Machine) under 50% LSG quota with a further prayer to direct the respondents to only call the helper (Trackman Machine) to the post of Technician-III (Track Machine) under 50% departmental quota.

2. Briefly stated the facts of the case are that the respondents issued a notification dated 11.3.2020 for initiating the selection process for the post of Technician-III (Track Machine) under 50% LSG quota by inviting the applications from all the Helpers of Engineering Department including P.Way, Safaiwala, Bridge Guard, Chowkidar, Cook etc. It is averred that vide order dated 21.5.2021, a seniority list in continuation of the letter dated 11.3.20220 has been issued wherein Safaiwala, Bridge Guard, Cook etc. has been included. A list of 73 eligible candidates has been issued by the respondent no.4 on 29.6.2021

and in this list also, Helper (Trackman) and Helper of other departments have been shortlisted. Earlier a notification has been issued on 7.5.2018, to which the applicants and other Helpers of Track Machine Department had made representation with a specific prayer for filling up the post of Technician-III (Track Machine), only from Helpers of Track Machine Department be considered. It is also averred in the O.A. that against the notification dated 11.3.2020, applicants again preferred a joint representation before the respondent no.4 with a prayer to exclude the Helpers of other departments viz. P.Way, Cook, Chowkidar, Bridgeguard etc. for promotion to the post of Technician –III (Track Machine) under 50% departmental quota. In the said representation, the applicants also given the specific reference that the DRM, Jabalpur while filling up the post of Technician-III (Track Machine) have only called the Helpers of Track Machine Department under 50% quota. It is alleged in the O.A. that without considering the grievance of the applicants as made in a joint representation, the respondents went ahead by fixing the date of selection vide letter dated 9.7.2021 and the date of selection process has been declared scheduled to be held in between 17.7.2020 and 9.7.2021. Hence, this O.A.

3. Per-contra, the respondents have contested the claim of the applicants by filing a detailed Reply wherein they have stated that on the basis of provisions contained under Rule 159(1) of IREM Vol.I read with table/avenue chart issued by the General Manager, West Central Railway through its letter dated 9.2.2018, the plea of the applicants that Khalasi/Helper Khalasi who are working on Track Machine are only entitled for promotion to the post of Technician-III (Track Machine) against 50% departmental quota for Engineering Department is not acceptable and as such the respondents have denied the same. They have further stated that the procedure for promotion of Skilled Artisans has been contained under Rule 187 of IREM Vol I (1989 edition). They have also asserted that the Divisional Railway Manager (Personnel), West Central Railway, Bhopal has properly issued the aforementioned notification dated 11.3.2020 for promotion to the post of Technician-II (Track Machine) against 50% departmental quota for Engineering Department. The respondents also took the plea that there is no infirmity or illegality in the notification as issued by the respondents and as such no interference is called for by this Tribunal and O.A. is liable to be dismissed.

4. Sri Veer Singh Saini along with 22 others have filed an application bearing M.A. No. 1126 of 2021 with a prayer to implead them as respondents in the Original Application as they are affected and necessary parties. Subsequently Lakhani Singh and 15 others have filed an application bearing M.A. No. 1355 of 2022 with a prayer to implead them as respondents in the O.A. Both these M.As were allowed vide order dated 10.2.2023.

5. Against the applications as made by the Interveners, the respective parties have filed their Reply negating the contentions of the Interveners as made in their applications.

6. The applicants did not want to file any Rejoinder to the Reply as filed by the Official respondents, which would be evident from the order-sheet dated 23.6.2022.

7. While entertaining the aforementioned Original Application, this Tribunal has passed an interim order dated 15.7.2021 by directing the respondents to allow the applicants to participate in the selection procedure Trade Test for Technician Grade-III (TMC) and the results thereof shall be kept in a sealed cover till further orders by making it clear that appointment for the post, in question, shall not be made without the prior permission of this Tribunal.

8. We have heard the learned counsel for the parties at length and also perused the pleadings available on record.

9. The short and simple question involved in this O.A. is whether the claim of the applicants for not entertaining the applications of Safaiwala, Bridge Guard, Chowkidar, Cook etc. for promotion to the post of Technician-III (Track Machine) under 50% departmental quota, is legally permissible or not ? In this context, we may refer that the employees cook, Safaiwala, Chowkidar, Bridge Guard, Helper Khalasi etc. are having only channel of promotion permissible under the rules as their next promotion as Technician-III and thereafter as per policy and rules, in vogue, they need to be considered with strict adherence of the rules. Further they are from the feeder cadre and not from the outside cadre. It is also noticed that the interveners in M.A. No. 1355 of 2022 are senior to the applicants of this O.A. as would be evident from the seniority lists dated 7.8.2018 and 12.10.2022 and also passed the trade test. They are also fully eligible for promotion to the next higher post i.e. on the post of Technician-III and also senior in the Integrated combined seniority list prepared for all four branches (i.e. Track Machine Branch, P.Way Branch, Bridge Branch and Works Branch of Engineering Department).

10. We have also acknowledged to note RBE No. 23 of 1998 dated 2.2.1998 on the subject of promotion for filling up the post of Skilled Artisan wherein it has been stated that in terms of para 159 of IREM Vol I, the vacancies in the artisan category of skilled grade since re-designated as Technician (Trade) are required to be filled from 50% by promotion of staff in the lower grade as per the prescribed procedure. Now, it is clear that 50% of the posts shall be filled through promotion amongst the staff in the lower grade as per the prescribed procedure. In that circular (RBE No. 23/98), it is nowhere mentioned that the staff in the lower grade belonging to a particular field/unit would only be considered for promotion to next higher post and the staff of the same category belonging to other units/wings would not be considered for such promotion.

11. Submission of learned counsel for the applicants takes the view that the notification, in question, suffers from the vice of arbitrariness and violation of fundamental rights of the applicants as guaranteed under Article 14 of Constitution of India. To this, learned counsel for the respondents submitted that

no rights of the applicants have been adversely affected. Further, the respondents have acted in accordance with the rules/RBE No. 23/98 which has neither been modified, nor annulled nor rescinded and the same still holds good. In view of this, it cannot be said that the action of the respondents in any manner is faulty one.

12. In view of the discussions made hereinabove, we are of the considered opinion that the applicants have not been able to make-out a case for intervention of this Tribunal. O.A. has no merit and the same is liable to be dismissed. Dismissed Accordingly. Interim order, passed earlier shall stand vacated. No costs.