



WEB COPY



W.P.Nos.2448,2449 of 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.10.2023

CORAM :

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

and

THE HONOURABLE MR.JUSTICE P. DHANABAL

W.P.Nos.2448 and 2449 of 2013

and M.P.Nos.1 and 2 of 2013

1. The Union of India,
rep. by the Chief Personal Officer,
Southern Railway, Chennai 600 003.

2. The Senior Divisional Personnel Officer,
Southern Railway,
Tiruchirappalli Junction 620 001.

... Petitioners in
W.P.2448/2013

Vs.

1. Andandan Munusamy

.. 1st respondent in
W.P.No.2448/2013

1. U.Devendran

.. 1st respondent in
W.P.No.2449/2013

2. A.Samidurai
3. Henry Walter
4. The Registrar,
The Central Administrative Tribunal,
Madras bench, Chennai 600 104.

... Respondents 2 to 4



W.P.Nos.2448,2449 of 2013

in both writ petitions

WEB COPY

Prayer in W.P.No.2448/2013: Writ petition filed under Article 226 of the Constitution of India seeking to issue a Writ of Certiorari, calling for the records relating to O.A.No.946/2010 on the file of the Central Administrative Tribunal, 4th respondent herein and quash the order dated 25.01.2012.

Prayer in W.P.No.2449/2013: Writ petition filed under Article 226 of the Constitution of India seeking to issue a Writ of Certiorari, calling for the records relating to O.A.No.945/2010 on the file of the Central Administrative Tribunal, 4th respondent herein and quash the order dated 25.01.2012.

In both writ petitions

For petitioners	: Mr.V.Chandrasekaran, Central Govt. Standing Counsel
For Respondents	: Mrs.P.Uma for R1 No appearance for R2 and R3



W.P.Nos.2448,2449 of 2013

COMMON ORDER

WEB COPY (Order of the Court was delivered by D.KRISHNAKUMAR, J.)

Challenging the order dated 25.01.2012 passed by the Tribunal in O.A.Nos.945 and 946 of 2010, *in and by which, the show cause notice dated 2.8.2010 and the letter dated 20.09.2010 issued against the first respondent in both writ petition by the appellants/ Department were set aside*, the present writ petitions have been filed by the Union of India/Department.

2. The facts and circumstances of the case and the parties to the writ petitions are one and the same and therefore, these cases are disposed of by this common order

3. The brief facts leading to the filing of the present writ petition is as follows.

The first respondent in W.P.No.2448/2013 and the first respondent in W.P.No.2449/2013 were working as Electrical Signal Maintainer/Grade-I and they had appeared in the LDCE (Limited Departmental Competitive



W.P.Nos.2448,2449 of 2013

Examination), which was conducted to fill up 20% intermediate apprentice quota and vide order dated 09.01.2009, they were selected to the post of Junior Engineer Grade-II against the vacancy under Scheduled Caste and Unreserved category respectively, w.e.f. 10.01.2009. Subsequently, pursuant to the order dated 16.02.2010 passed by the Tribunal in O.A.No.95/2009 filed by the second respondent herein, the Department had passed the impugned order dated 02.08.2010, reverting the first respondent in both the writ petitions to their lower post. Subsequently, another letter dated 20.09.2010 was sent to them, explaining the circumstances under which the first respondent had to be reverted back to parent category. According to the first respondent, the respondents 2 and 3 were already promoted as Junior Engineer-II against 40% promotion quota and they are under training with effect from 07.07.2010 to get posting as Junior Engineers. Therefore, challenging the above said show cause notice dated 2.8.2010 as well as the letter dated 20.09.2010, the first respondent in both the writ petitions have filed O.A.Nos. 945 and 946 of 2010 and the same were allowed by the Tribunal. Now the above said orders are impugned herein.



W.P.Nos.2448,2449 of 2013

4. The learned counsel for the petitioners submitted that, the selection committee had recommended the first respondent in both the writ petitions to be empaneled for promotion to the post of Junior Engineer-Grade-II vide order dated 09.01.2009 and the same was challenged by the second respondent, by filing O.A.No.95/2009 before the Tribunal, and the above said application was allowed on 16.02.2010 with a direction " to consider his claim , if he is senior to the selected candidates in the category to which he belongs and if he is otherwise eligible for inclusion in the panel". Subsequently, the second and third respondents herein were empaneled on seniority basis, after getting approval from the competent authority.

5. The learned counsel for the petitioners vehemently argued that, in the Railway Board's letter dated 26.11.1986, it is made clear that the panel against LDCE IAQ quota is to be drawn on the basis of seniority among those who are all qualified and the instructions contained in the above letter dated 26.11.1986 have not been superseded so far. However, at the time of selection, as a bonafide mistake, the selection authority has followed the subsequent order dated 16.03.2009 of the Railway Board and the panel was



W.P.Nos.2448,2449 of 2013

drawn on the basis of merit and not on the basis of seniority.

WEB COPY

6. It is further submitted by the learned counsel for the petitioners that, pursuant to the order passed by the Tribunal in O.A.No.95/2009, dated 16.02.2010, the matter was referred to Chief Personnel Officer, Southern Railway, Chennai and after obtaining approval from the competent authority, show cause notice was issued on 02.08.2010 to the first respondent in both the writ petitions, cancelling the letter dated 09.01.2009 and were informed about the proposal for redrawing the panel. Subsequently, vide letter dated 20.09.2010, the first respondent in both the writ petitions were informed that the Panel will be re-drawn duly, reverting them back to their parent cadre.

7. The learned counsel for the petitioners also submitted that the eligible candidates in the order of seniority, following the Railway Board's instructions dated 26.11.1986, has been re-drawn and the first respondent in both the writ petitions were found to be ineligible for selection and hence, the above said show cause notice and letter were duly served on them and



W.P.Nos.2448,2449 of 2013

hence, there is no fault on the side of the petitioners. It is his contention that the Department has issued only show cause notice and has not passed any final order. However, without considering the case in proper perspective, the Tribunal has erred in quashing the impugned show cause notice and letter and allowed the writ petitions. Hence, the order of the Tribunal is liable to be set aside.

8. The learned counsel for the first respondent in W.P.No.2448/2013 submitted that, subsequent to the order of the Tribunal, the first respondent was given promotion and till now, he is continuing in the promotion post and hence, she seeks for dismissal of the writ petition.

9. Heard the learned counsel for the petitioners and the first respondent in W.P.No.2448 of 2013. We have also perused the materials on record.

10. A perusal of the records show that at the time admission, no interim stay was granted in both the writ petitions. It is brought to the



W.P.Nos.2448,2449 of 2013

notice of this Court by the learned counsel for the first respondent in W.P.No.2448/2013 that the order of the Tribunal was complied with by the Department and the first respondent in W.P.No.2448/2013 was given promotion and he is continuing in the promoted post. The above fact is not denied by the learned counsel for the petitioners.

11. While disposing the application, the Tribunal has observed as follows.

A careful perusal of the order passed by the Tribunal in OA No.95/2009 supra shows that the order of empanelment dated 09.01.2009 was not held to be illegal or set aside. It is also seen that the applicants have been selected after scrutiny of their service registers and confidential reports by the Selection Committee and recommended for empanelment based on the highest mark secured in the 20% LDCE held on 26.09.2008. Further, as per the Railway Board's letter in No.E(NG)I-2008/PM7/4 SLP dated 19.06.2009 with regard to selection procedure for promotion to general selection posts, placement of names on panel, in para 3.2 stipulates that any previous selection panel drawn up otherwise before issue of this letter, need not be reopened. If the respondents find any infirmity in the drawl of the panel, it is open to them to redraw the panel in conformity with Board's instructions dated 26.11.1986 by including the eligible candidates in the order of seniority. But they have not done so and they have not produced any material to substantiate their stand that panel has been redrawn and consequently the applicants are not eligible to hold the post of JE-II. Further the respondent do not deny the averment made by the applicants in Ground No.6 that only six vacancies as against 10



WEB COPY



W.P.Nos.2448,2449 of 2013

vacancies were filled up in 40% promotion quota. The rest of 4 vacancies were not filled up for want of qualified employees. Therefore, there is shortfall of eligible Junior Engineers in the signal department and thus vacancies are available even against 20% LDCE quota to accommodate the applicants as well as the respondents and there is no necessity at all to revert the applicants herein. That apart, a perusal of O.O.No.S&T/Admn./49/2010 dated 15.11.2010 shows that the third and fourth respondents on successful completion of training have been empanelled and promoted for the post of Junior Engineer Gr.II against 40% PRQ and posted under SSE/S/L/TPJ and SSE/MV respectively.

Under the facts and circumstances of the case and in view of the discussion above, the applicants are justified for grant of relief as prayed for and accordingly the impugned show cause notice in order No.T/P 608/1 X/S&T Admn/JEII/20% LDCE dated 2.8.2010 and impugned order No.T/P 608/1X/S&T Admn/JEII/20% LDCE dated 20.09.2010 passed by the second respondent are held to be unreasonable and are hereby quashed and set aside. The OAs are allowe. No order as to costs.

12. In the above order, the Tribunal has discussed in detail about the selection procedure for promotion to general selection posts and placement of names on panel, citing the Railway Board letter dated 19.06.2009. Further, the Tribunal has observed that, if the respondents find any infirmity in the drawal of panel, it is open to them to redraw the panel, in conformity with the board's instruction dated 26.11.1986, by including eligible candidates in the order of seniority. However, the respondents have not



W.P.Nos.2448,2449 of 2013

done so and also they have not produced any material to substantiate that panel has been redrawn and consequently the applicants are not eligible to hold the post of Junior Engineer-II. With regard to the above said observation, there is no reply from the petitioners/Department in the present writ petitions. Therefore, we are of the view that there is no error in the order passed by the Tribunal warranting interference by this Court.

13. Accordingly, both the writ petitions are dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

(D.K.K.J.) (P.D.B.J.)

11.10.2023

Internet: Yes/No
Index : Yes/No
mst



W.P.Nos.2448,2449 of 2013

To

WEB COPY

1. The Chief Personal Officer,
Union of India,Southern Railway,
Chennai 600 003.
2. The Senior Divisional Personnel Officer,
Southern Railway,
Tiruchirappalli Junction 620 001.
3. The Registrar,
Central Administrative Tribunal,
Madras Bench, Chennai 600 104.



WEB COPY



W.P.Nos.2448,2449 of 2013

D.KRISHNAKUMAR, J.

and

P. DHANABAL, J.

mst

W.P.Nos.2448, 2449 of 2013

11.10.2023