



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

WRIT PETITION NO.3925/2024

The Divisional Railway Manager (Personnel), Central Railways, Nagpur and another
Vs. Amit s/o Vasantrao Gadole and others

WITH

WRIT PETITION NO.3923/2024

Union of India, Thr. Ministry of Railway (Railway Board), Thr. its General Manager,
New Delhi and others Vs. Amit s/o Ganeshprasad Nikhare and others

*Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders.*

Court's or Judge's order

Ms. Mugdha Chandurkar, Advocate (D.S.G.I.) for petitioners in both petitions.
Ms. Rashi Deshpande, Advocate for respondent nos.1 to 3, 12, 13, 15 to 17 in
WP 3925/2024 and respondent nos.1 and 3 in WP No.3923/ 2024.

CORAM : NITIN W. SAMBRE & ABHAY J. MANTRI, JJ.

DATE : AUGUST 26, 2024.

P.C.

Heard.

2. The challenge in these petitions is to the order dated 22nd August, 2023 delivered in Original Application Nos.2065/2019 and 2100/2019 by the Central Administrative Tribunal, Nagpur in the matters of Amit s/o Ganeshprasad Nikhare and others Vs. Union of India, Thr. Ministry of Railways and others and Amit s/o Vasantrao Gadole and others Vs. The Divisional Railway Manager (Personnel), Central Railways, Nagpur and another respectively.

3. Vide the impugned order, the Central Administrative Tribunal has held that the Clause no.6 to the extent, an embargo on the right of the respondents in participating the selection process of Group-C and Group-D employees in the Commercial Department being employees of

that department were struck down, as the same was held to be violative of Article 14 of the Constitution of India.

4. The counsel appearing for the petitioners, so as to substantiate her contention that the order impugned delivered by the Tribunal is not sustainable, would invite attention of this Court to the factual matrix. According to her, the respondents vide order dated 28th May, 2012 appointed in the Canteen Department, as Catering Cleaner and Courier Clerk having served up to 2017, they were redeployed in the Commercial Department as the entire catering services are managed by the Indian Railway Catering Co.

5. After the respondents were appointed in the Commercial Department, a notification dated 28th December, 2018 came to be issued, thereby scheduling departmental examination.

6. The respondents since were forming an independent class of employees, who were taken on the services of the Commercial Department from the Catering Department, who were held to be not qualified for participating in the said selection process. According to Ms.Chandurkar, the respondents are forming an independent class of the employees, whose services were absorbed in the Commercial Department from the Catering Department. That being so, the services of the respondents cannot be equated with other qualified staff of the department, who are permitted to be participated in the selection process by entering in the examination. She would claim that once it is demonstrated that the respondents are formed an independent class

apart, the test of Article 14 of the Constitution of the India, if applied, the Tribunal should have held that there is no violation of Article 14 of the Constitution of India.

7. As against above, the counsel appearing for the respondents would try to substantiate the claim that the Clause no.6 issued in the notification for carrying out process of conducting departmental examination is rightly held to be illegal and violative of Article 14 of the Constitution of India, as the services of the respondents were absorbed in the Commercial Department in the respective Grades i.e. Grade-C and Grade-D. As such, she would urge that the services of the respondents were absorbed, same would merge in the existing Cadre of Group-C and Group-D employees respectively. As such there is no independent cadre of the employees, who are absorbed from the Catering Department. As such, she would urge that the petitions are liable to be dismissed.

8. We have appreciated the submissions.

9. The fact remains that the respondents were the employees of the Catering Department and presently posted in the Commercial and other departments. This fact is not in dispute. After such redeployment, the Catering Department was closed down and as such the respondent-employees lose their characters as that of an employees of the Catering Department. Hence, they are rightly to be held by the Tribunal to be the employees in Group-C and Group-D category of the petitioner-employer post their absorption/transfer in the commercial and other department of Railways.

10. The Tribunal in detail has considered the very legality and sustainability of the Clause no.6 of the notification whereby the process of recruitment is sought to be taken recourse for the employees of Commercial Department and has rightly held that the Clause no.6 is unreasonable, as the same violates the right of the respondent-employees, who are sought to be discriminated without there being any intelligible differentia.

11. In this background, in our opinion, the view expressed by the Tribunal is just and proper. No case is made out for causing interference. The petitions fail and the same are dismissed. No costs.

(ABHAY J. MANTRI, J.)

(NITIN W. SAMBRE, J.)