

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL,
ALLAHABAD BENCH, ALLAHABAD.

ORIGINAL APPLICATION NO 330/00575 OF 2014

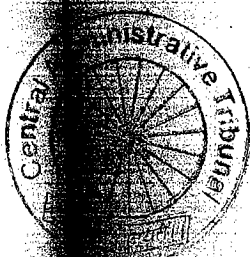
(Under Section 19 of the Administrative Tribunals Act, 1985)

1. North Central Railway Engineers Association (N.C.R.E.A.), an association of Group C Supervising Engineers of North Central Railway, registered under the Societies Registration Act, 1860 and affiliated to the All India Railway Engineers Federation, office at, 1090, Isaai Tola, Khati Baba, Jhansi-U.P., through its Finance Secretary, S.K.Gupta, Senior Section Engineer/ NCR/TRS, Jhansi.
2. Pooran Singh Sharma, aged about, 60 years, Son of, Sri Chiranji Lal Sharma, Resident of, 16 J, Moti Enclave, Aurangabad, Mathura, Presently posted as Senior Section Engineer (Carriage and Wagon), at Baad, North Central Railway, Agra-U.P.
3. B.N. Gupta, aged about 56 years, Son of, Sri Mathura Prasad Gupta, Resident of, Quarter No. 940 B, Railway Colony (West) RB (III), Jhansi-U.P. Presently posted as Senior Section Engineer, in the office of the Senior Divisional Electrical Engineer, North Central Railway, Jhansi-U.P.

.....**APPLICANTS**

Versus

1. The Union of India, through the General Manager, North Central Railway, Allahabad.
2. The General Manager (Personnel), North Central Railway, Allahabad- (U.P.).



(Reserved on the point of
interim relief on
10.06.2014)

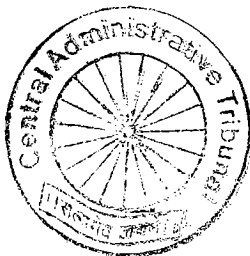
12th June, 2014

O. A. NO.330/00575 OF 2014
Hon'ble Ms B. Bhamathi, Member (A)

Shri S. Narain counsel for the applicant and Shri Anil Kumar counsel for the respondents are present.

This O.A. has been filed seeking the following interim relief till the final decision in the O.A :-

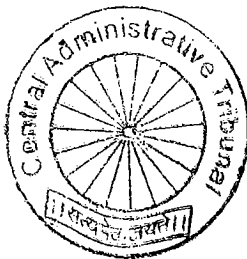
".....(i) restrain the respondents from making any selections/promotions from Group C, under the 70% quota, to the Group B posts of AME/AWM in the Mechanical Department, and AEE, in the Electrical Department, on the basis of the impugned eligibility lists prepared as per the impugned RBE No.53/2011 dated 25.4.2011."



The case of the applicant is that Junior Engineers/Senior Section Engineers viz. AWAE/AWM and AEE in the Mechanical and Electrical Department, respectively, called as cadre of Supervising Engineers (SE) and falling in the Group C category are promoted in Group B category in the promotional

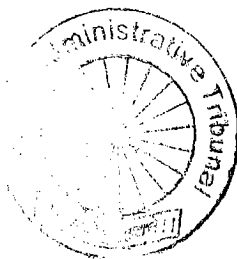
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avenue of Mechanical and Electrical Department. The vacancies in Group B are to be filled up under merit cum seniority based selection process to the extent of 70% of the vacancies and the remaining 30% through LDCE (Limited Department Competitive Examination). In the former process, which is the subject matter of this OA, Loco Pilots (Mail/express), Loco Pilots (Passenger)/Motor Man and Goods Driver and Senior Shunters, hereinafter called as the running cadre, all in PB-2 and having the Grade Pay of Rs.4200/- have been equated with the holders of Senior Section Engineers (SSE) posts, hereinafter called as stationary posts, in the cadre of Supervising Engineers, in PB-2 with the higher Grade Pay of Rs.4600/- for the purpose of making selection for promotion to Group B posts. Similarly the posts of Shunter and Senior Assistant Loco Pilots in PB-1 with Grade Pay of Rs.2400/- have been equated with stationary posts in PB-2 with Grade Pay of Rs.4200/-. There is no rationale, logic, nexus or purpose behind the forced equivalence sought to be brought about between the posts of the running cadre having lower Grade Pay and the stationary posts carrying a higher Grade Pay. The impugned order dated 25.4.2011 and the impugned eligibility lists are in complete violation of existing rules(letter of of the Board dated 29.3.2010 is part of the Rules) and provisions and is also in contradiction to



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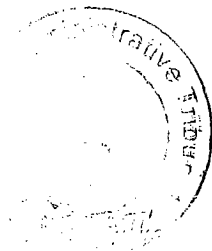
the specific instructions contained in the Board's letter dated 26.9.2012. Consequently, the eligibility list, according to the prescribed zone of consideration is dominated by the staff of the running cadre and the staff of stationary cadre has been reduced to a bare minimum. even though the proposed selection for which the inter-se seniority /eligibility list was for making promotion to Group B post in the Engineering Department. Moreover, as per the impugned order of 25.4.2011, the running cadre on promotion will be granted the Grade pay of Rs 4600 with retrospective effect i.e. from the date they came into the Grade pay of Rs 4200 which is against settled legal position. In this connection the respondent has relied on the ruling of the Honble Supreme Court in Mrf Ltd Kottayam Vs Assistant Commissioner decided on 21.09.2006, which inter alia rules that "... *provisions of the Act or notification are always prospective unless the express language renders it otherwise making it effective with retrospective effect*". The urgency in the matter has arisen as the respondents have already conducted the written test and the apprehension is that the selection process is likely to gather faster pace with the filing of this O.A. to declare the panels and grant promotions. The applicant has stated that if the selection process is taken to its logical conclusion the applicants would suffer permanent and irreparable



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damage, as rights once vested by way of promotion on the basis of impugned order/eligibility lists cannot be challenged without impleading as party those from the running cadre having lower grade pay being granted the benefits of promotion. Keeping this in view, a token number of the running cadre staff who figure in the eligibility lists have already been impleaded as respondent Nos. 6, 7 and 8. Hence, the selection process even if it is continued should not result in the declaration of the panels/promotion pending decision in this O.A. The applicant have filed M.A. No. 330/02061 of 2014 along with the O.A.

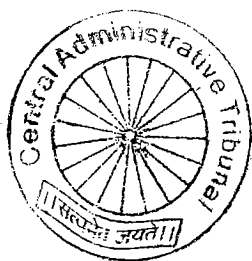
In the short counter filed by the respondents, it has been contended that the OA, in the first place, is not maintainable u/s 19 of the AT Act 1985 r/w 4(5) (b) of the CAT Rules 1987. The applicants should have come in individual capacity and not as an Association. The respondent has relied on the decision of the Full Bench of the Allahabad High Court in Umesh Chand Vinod Kumar vs. Krishi Utpadan Samiti, 1983 UPBLEC, 756 and the order of this Tribunal in OA 1095 of 1987. The applicant has contended that this case has been filed by the NCREA, which is a registered Association and is not covered by the above orders/decisions of the Court/Tribunal, in as much, as it is in



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conformity with Rules 4 (5) (b) of the CAT (Procedure) Rules of 1987.

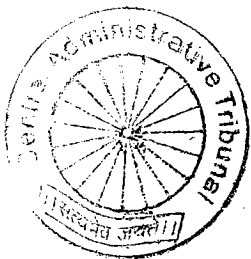
The respondents have further stated in the short counter that the issue of equivalence/comparison between the grade of running staff with those of stationary staff for the purposes of promotion/selection has been engaging the attention of respondent authorities since the last more than two decades. A number of executive instructions, issued from time to time, on the recommendations of the successive Pay Commissions and as per decisions taken in the PNM meetings shows earlier implementation of the scale of pay applicable for the category or running staff to the scale of pay of stationary staff to which they have been equated. Several instructions have also been issued clarifying that the Board's instructions would be applicable to Group B posts for determining eligibility of the candidates for promotion in the respective Group B posts under 70% selection as well as 30% LDCE. The impugned arrangement is already being implemented, accordingly. Hence there is nothing new or questionable as the same is being done as per rules and provisions laid down by the Railway Board. There is no illegality, malafide of arbitrariness.



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Hence, on the prayer for interim relief, the respondents have concluded that if and when the OA succeeds, applicants would be entitled to the relief prayed for and it would be premature to grant any interim relief now. However, the applicant has contended that the eligibility lists declared on the basis of the prescribed zone of consideration commensurate with the vacancies announced will keep the applicants outside the pale of promotion benefits, since they will never figure within the zone of consideration, thus rendering the loss permanently irreparable.

I have heard the learned counsels. Before examining the prayer of interim relief it is necessary to see if the OA is maintainable in the light of the averments made on the issue of maintainability, Section 4 (5) (a) and 4(5) (b) of the CAT (Procedure) Rules, 1987 reads as under:

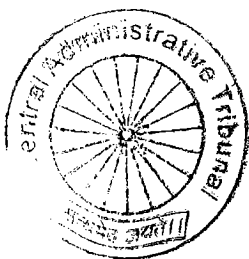


"4 (5) (a) Notwithstanding anything contained in sub-rules (1) to (3) the Tribunal may permit more than one person to join together and file a single application if it is satisfied, having regard to the cause and the nature of relief prayed for that they have a common interest in the matter".

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4 (5) (b) Such permission may also be granted to an association representing the persons desirous of joining in a single application provided, however, that the application shall disclose the class/grade/ categories or persons on whose behalf it has been filed (provided that at least one affected person joins such an application)."

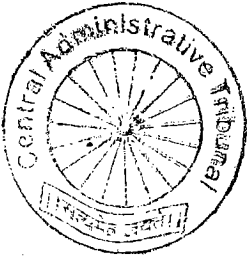
Applicant no 1 is a registered Association called NCREA representing Group 'C' cadre of Supervising Engineers. Applicants 2 and 3 are members of the aforesaid Association and are presently working on group 'C' post of Senior Section Engineer in the cadre of Supervising Engineers. They have filed the present O.A. along with applicant no. 1 since they are aggrieved and affected by the impugned orders and impugned eligibility lists prepared by the respondents. In view of the above, the O.A. meets the requirement of Section 4 (5) (a) (b) and hence, I consider the O.A. maintainable.




On the prayer of interim relief, I find that the ramification of the case involves two cadres with a large number of persons on both sides. The case of the respondents that this is an old matter and the equivelance between the running cadre and stationary

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cadre is in practice since long does not mean that the instant impugned order/eligibility list can never be challenged. However, the matter requires deeper consideration on the merits of the case before vesting any right in the light of the impugned orders. The selection process if taken to logical conclusion in the absence of the interim relief in my view will be irreversible and irreparable. The short counter filed by the respondents has not addressed the issues, adequately, relevant to the matter at this stage. The balance of convenience, therefore, is to allow the prayer of the applicants to the extent that even if the respondents continue the selection process the announcement of the outcome of the selection process will be subject to the decision in this O.A. Hence the panel/promotion shall not be notified till the case is heard and decided on merits.



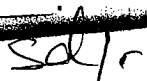
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Dated 12th June 2012

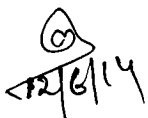

12-06-2012
अनुभाग अधिकारी
Section Officer

केन्द्रीय प्रशासनिक अधिकरण न्यायपीठ
इलाहाबाद
Central Administrative Tribunal
Allahabad Bench Allahabad

In view of the above, interim relief as prayed for by the applicants subject to the condition that the panel/promotion shall not be declared pending decision in this O.A. The respondents are directed to file a detailed counter affidavit before next date.

List on 11.7.2012


A.M.


12/6/12