

Federation of Directly Appointed Officers (Suppressed) Of Indian Railways and Others

Vs

Union of India and Others

Writ Petitions Nos. 7900-7902 of 1982

(Ranganath Misra, M. M. Dutt JJ)

14.08.1987

ORDER

1. The problem that has arisen in this group of cases is the outcome of fusion of ex-cadre Engineers with regular cadre. At the time such fusion was permitted government decided that the ex-cadre Engineers would be given the credit of 50 per cent of their ex-cadre service subject to a maximum of five years, whichever is less, for fixing seniority in the cadre. We are told that the persons involved in the ex-cadre side are now about 450. The appeal is by a group of employees of the original cadre who do not want this benefit to be conferred upon ex-cadre Engineers. The writ petitions are by the ex-cadre Engineers who dispute the curtailment of the total period of service for fixing of seniority and conferment of the limited benefit.

2. At the commencement of the hearing of the writ petitions on the earlier occasion, Mr. Nariman appeared for the cadre Engineers and pointed out that the writ petitions were barred by the rule of res judicata as Katyani Dayal and some others belonging to the group of ex-cadre Engineers had filed a writ petitions in this Court under Article 32 of the Constitution and lost. The judgment of this Court is reported in Katyani Dayal v. Union of India ((1980) 3 SCC 245 : 1980 SCC (L&S) 380 : (1980) 3 SCR 139). Paragraph 10 of the judgment indicates that the writ petitioners had been permitted to sue in representative capacity. That position is being disputed now. Since we are not disposing of the matter finally, it is not necessary to go into this question at this stage but in the event of the matters being required to be disposed of on merit this aspect has got to be examined. Mr. Nariman also contended that the claim made now several years after the fusion has been made and particularly after one round of litigation was over should not be entertained on the ground of laches. This again is an aspect which would require examination if the matter has got to be examined on merits.

3. The other side of the picture is to conclude the matter from on a technical plea may not satisfy the litigating employees who have been claiming for their rights to be recognised. With that end in view we want to explore the possibilities of giving some additional benefit to the ex-cadre Engineers and for that purpose wanted the Government of India and the Railway Board to give a sympathetic look into the matter. We also thought it appropriate for the purpose of giving this new look that the employer must know as to what exactly would be the position of the cadre employees in regard to their appeal. We have ascertained from the counsel for the appellant that in the event of their existing positions under the merger scheme not being disturbed, if some advantages are conferred on the ex-cadre Engineers the same may not be seriously objected to. But if any additional disadvantage is brought in regard to the direct recruits that would not be accepted. This is only a tentative basis and does not preclude the appellant in the connected appeal to raise any contention available to the appellant therein in case the matter is ultimately to be disposed of on merits.

4. We are told that there is some reorganisation of the services in contemplation. If the matter is considered in that backdrop, it may be possible that some posts would be available to accommodate some of the ex-cadre Engineers in higher positions and they may yield scope for adjustment of such people without affecting the cadre employees in their present positions. This is a matter which can only be ascertained if the appropriate authorities in the Railway Board apply their mind to the problem with a proper spirit and remaining cognizant of the fact that the problem is the outcome of non-attention at the appropriate point of time. We must take it clear that the requirement to explore this is grounded upon the consideration of extending satisfaction to the employees and we are not proceeding on entitlement in law. This again is a problem which would not recur.

5. Mr. Mahajan for the administration wants about six to eight weeks time to have this aspect examined and report to the court. We accordingly, adjourn these writ petitions and the appeal till October 14, 1987. A copy of today's order may be made available to Mr. Mahajan for convenience in obtaining instructions.

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