

(60)

GOVERNMENT OF INDIA/BHARAT SARKAR  
MINISTRY OF RAILWAYS/RAIL MANTRALAYA  
(RAILWAY BOARD)

NO.E(NG)I/93/PM10/8

New Delhi, dated 10/5/94

The General Managers (P),  
All Indian Railways including  
Production Units etc.  
(As per Standard List).

Subject: Central Administrative Tribunal,  
Madras Bench's common judgement  
dated 3.12.93 in OA Nos 739/91  
and 832/91 - Shri S.Rajagopal &  
Ors Vs U.O.I. and anr. - Qualifi-  
cations for promotion to the  
post of Lab. Supdt. Gr.I and  
classification thereof.

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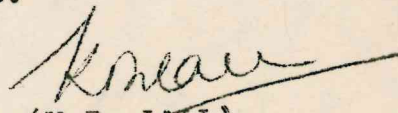
Please find enclosed a copy of the CAT/Madras  
Bench's common judgement dated 3.12.93 in OA Nos.739/91 &  
832/91- S.Rajagopal and Ors. Vs U.O.I. and anr. on the  
above subject.

2. On the analogy of the decisions pronounced by the  
Hon'ble Supreme Court in some of the cases, it has been  
held by the Hon'ble CAT that though a lesser qualification  
is sufficient for the entry grade, it would not be  
unreasonable to insist on a higher qualification for  
promotion to a higher post. It has also been held that  
it is not for the Tribunal to direct the Department to  
consider reclassifying the post as a non-selection post.

3. Since this is an important judgement, its copies may  
be circulated to the concerned officers of the Headquarters/  
Divisions/Workshops for information.

4. Please acknowledge receipt.

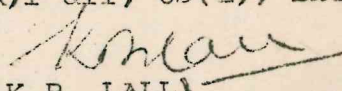
DA/8 Pages.

  
(K.B. LALL)  
DIRECTOR ESTABLISHMENT(N)  
RAILWAY BOARD.

NO.E(NG)I/93/PM10/8

New Delhi, dated 10/5/94.

COPY TO:- PS to MS, ADV(S), EDE(N), EDE(Res), EDE, DE(G),  
DS(E), JDE(Rep), JDE(R)I &II, US(E), DDE(R)I&II.

  
(K.B. LALL)  
DIRECTOR ESTABLISHMENT(N)  
RAILWAY BOARD.

भारत सरकार  
रेल मंत्रालय रेलवे बोर्ड

सं. ई एन जी ११/९३/पी स्म १०/८

नई दिल्ली, दि० १०.५.९४

महाप्रबंधक कार्मिक,  
सभी भारतीय रेलें तथा  
उत्पादन इकाइया आदि.  
मानक सूची के अनुसार

विषय:- ओ ए संख्या ७३९/९१ तथा ८३२/९१ में केंद्रीय  
प्रशासनिक अधिकरण, मद्रास न्यायपीठ का दि०  
३.१२.९३ का निर्णय-श्री एस्. राजागोपाल एवं  
अन्य बनाम भारत संघ तथा अन्य-प्रयोगशाला  
अधीक्षक ग्रेड-१ के पद पर पदोन्नति के लिए  
अर्हताएं तथा उसका वर्गीकरण.

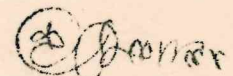
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कृपया उपर्युक्त विषय पर एस्. राजागोपाल तथा अन्य बनाम यू ओ आई  
पर ओ.ए.सं. ७३९/९१ एवं ८३२/९१ में केंद्रीय प्रशासनिक अधिकरण/मद्रास न्यायपीठ  
के दि० ३.१२.९३ के सार्वजनिक निर्णय की प्रतिलिपि संलग्न है.

२. माननीय उच्चतम न्यायालय द्वारा कुछ मामलों में दिये गये निर्णयों की  
अनुरूपता के आधार पर माननीय केंद्रीय प्रशासनिक अधिकरण ने यह निर्णय दिया है  
कि हालांकि प्रवेश ग्रेड के लिए कम अर्हताएं पर्याप्त हैं इसलिए उच्च पद पर पदोन्नति  
के लिए उच्च अर्हता पर बल देना ठीक नहीं होगा. यह भी निर्णय दिया गया है कि  
अधिकरण गैर-प्रवरण पद के रूप में पद के पुनर्वर्गीकरण पर विचार करने के लिए विभाग  
को निदेश नहीं दे सकता है.

३. चूंकि यह एक महत्वपूर्ण निर्णय है इसलिए मुख्यालयों/मंडलों/कारखानों  
के संबंधित अधिकारियों को इसकी प्रतियां सूचनार्थ परिपत्रित की जाए.

४. कृपया पावती दें.



के. बी. लाल

निदेशक स्थापना एन  
रेलवे बोर्ड.

(59)

Central Administrative Tribunal  
Madras Bench

....

ORIGINAL APPLICATIONS Nos. 739/91 and 832/91

The Hon'ble Mrs. Justice Padmini Josudurai, Vice Chairman  
and

The Hon'ble Mr. R. Venkatesan, Administrative Member

1. S. Rajagopal
2. T. Ekambaram
3. Mrs. Money Sara Tahambi
4. V.P. Kuriakose
5. M.C. Thinagar

.... Applicants in  
O.A. 739/91 and  
832/91

By M/s. T.K. Rajeswaran  
and V. Dilli Baboo

Vs.

1. The Union of India  
rep. by the Secretary/  
Establishment (Medical),  
Ministry of Railways  
(Railway Board),  
New Delhi-110 001.
2. The General Manager (Personnel),  
Southern Railway,  
Madras-600 003.

.... Respondents

By Mr. K. Venkateswara Rao

....

....2/-

ORDER: Pronounced by the Hon'ble Mrs. Justice  
Padmini Josudurai, Vice Chairman

.....

1. Since the same five employees have filed these Original Applications, seeking reliefs which are inter-linked, these OAs under Section 19 of the Administrative Tribunals Act, 1985 were heard together and are being disposed of together under this common order.

2. Five applicants have joined together in these applications. The prayer in O.A. No. 739/91 is to quash the Railway Board's Order dated 15.4.1990 in No. E(NG)I/89/PM-10/12 read with the letter dated 16.8.1980 whereunder certain guide-lines have been prescribed for promotion to the post of Laboratory Superintendent Grade-I (LS G-I). As a consequential relief it is also prayed that the qualification of being a graduate in Science for promotion to the above post be dispensed with.

....3/-

3. The relief prayed for in O.A. No. 832/91 is for a direction to the respondents to consider re-classifying the post of LS G-I as a non-selection post.

4. Facts briefly as are as follows:-

The five applicants joined service in the Southern Railway as direct recruits between 1962 and 1976 in the cadre of LS G-III, selected through the Railway Service Commission. The educational qualifications for such recruitment was a matriculation, with science and diploma in Lab. Technician course from a recognised institute. In due course, all the applicants, in about 1984, were promoted as LS G-II. The next promotional avenue is the post of LS G-I. The Railway Board's letter dated 1.8.1972 prescribed the eligibility condition namely, graduate in science with five years experience. The post was a selection post, the selection being by viva-voce only. On 1.1.1979, the post of LS G-I was upgraded at a certain percentage, which was again revised by another upgradation on 19.2.1980. Since difficulty was felt to fill up the vacancies of upgraded post of Grade-I a one time exception was given by relaxing the educational qualifications and service conditions to the level of non-graduates and four years experience. Again in 1984, the percentage of post was revised in terms of Railway Board's letter dated 15.11.1984, at a particular per-centage. This time also there was a relaxation in respect of non-graduates and service from five years to three years. The relaxation of educational qualifications and

service conditions were made applicable only to upgraded/re-structured posts, whereas the posts which otherwise fell vacant due to retirement etc. were being filled up on the basis of the qualifications prescribed.

5. The grievance of the applicants is that in railway service, the posts are so organised that alternate posts are treated as a selection post whereas the post of LS G-I is classified as a selection post, while that of Grade-II is also a selection post. It is stated that on the mechanical/electrical department, telegraphs branch, Pharmasists and Health Inspector attached to the Railway scheme of alternate post being treated as selection posts is being followed. A deviation is made in the case of the posts of Laboratory Assistant Grade-I alone. This is a discrimination.

6. It is further stated that the top most grade in Group 'C' post namely LS G-I ought to be classified as a non-selection post as is generally done in other sections. Employees reach the stage of consideration for promotion to the top most grades where they are around 50 years of age with vast experience and at that stage to make promotion by means of a selection prescribing educational qualifications would prevent such employees from reaching the highest post in their cadre.

7. It is further contended that the post of Lab. Superintendent of different grades carry the same duties and responsibilities which could be seen from the Railway

Medical Manual Chapter II Section B Item 37. While so, to classify the post of LS G-I as a selection post and prescribing minimum qualification is illegal. These in short are the contentions in respect these O.As.

8. On behalf of the department, a detailed and lengthy reply has been filed resisting these contentions and in particular stating that the post of LS G-I is a supervisory post. The incumbents therefore need working knowledge of a high order and should be able to guide their subordinates in proper perspective. The railway had undertaken sophisticated and higher technological investigation on latest developed machines, which needed well qualified persons. It is also stated that it is the prerogative of the department to classify posts and to prescribe minimum qualifications and the applicants could not questioned this right. Regarding discrimination alleged in favour of one Ramamurthy it is stated that Ramamurthy was promoted against an upgraded post and Rajagopal, the first applicant herein and one Nicholson Roy, had been mistakenly promoted on ad-hoc basis as LS G-I.

9. As far as OA No.739 and 832/91, are concerned, the grievance of the applicants is that the educational qualifications of requiring a science graduate for promotion to the post of LS G-I should be dispensed with. The applicants are all matriculates with a diploma in Lab Technology. They had entered service as direct recruits on the basis of this qualifications and in due

course been promoted as LS G-II. It is at this stage, that the Railway Board by letter dated 1.8.72 had prescribed a qualification of a degree in science for promotion to the post of LS G-I. Mistakenly the applicants have sought for quashing of the Railway Board's order dated 16.8.1980 as though the qualifications were first prescribed only under that order. Whatever that be as, rightly contended by the department the right to create posts, abolish posts, prescribe qualifications, are all the prerogative of the department. So long as they are not violative of any law or violative of the fundamental rights, the Tribunal could not interfere to prescribe different qualifications by striking down the existing qualifications. The department has given reasons as to why the posts of LS G-I has been made a selection post and as to why qualifications have been prescribed. The post of LS G-I could be filled up by direct recruitment as well. In the case of direct recruits the qualifications prescribed is M.Sc Chemistry (preferably Bio-chemistry and/or Organic Chemistry) with experience of two years in a Laboratory or institution undertaking analysis connected with foods, drugs or clinical bio-chemistry. For departmental promotion however, the qualifications is a chemist/Laboratory Superintendent Grade-II with a degree in science and five years experience as Chemist. It is thus seen that a lower educational qualifications is required for promotees taking into consideration the fact that such promotees would have already acquired vast experience, which would

justify dispensing with the post graduate degree in science. We also find that the post of LS G-I is a supervisory post and they have to supervise the work of Grade-II and Grade-III. It is needless to emphasis that the diagnosis of diseases and further cure depends upon clinical report. While so, it would not be unreasonable to require a higher educational qualifications for the post of LS G-I.

10. No doubt the logical consequence of prescribing an educational qualifications for the higher post would be to deny promotion to those in the lower post who do not possess the higher qualifications. It is also true that the initial entry as LS G-III does not require a graduation in science. However courts have held that, though a lesser qualification is sufficient for the entry grade, it would not be unreasonable to insist on a higher qualification for promotion to a higher post. Mention need be made of the judgment of the Supreme Court in State of Jammu and Kashmir Vs. Sri Triloki Nath Khosa and others (1974 SCC(L&S)-49) The same position of law has been reiterated in Murugasen and others Vs. State of Tamil Nadu (1993 SCC L&S 445). We therefore, hold that there is nothing illegal in requiring a graduation in science for to the promotion/post of LS G-I and the Railway Board's order prescribing such qualifications cannot be quashed.

It is not for the Tribunal to direct the Department to consider re-classifying the post as a non-selection post.

11. In the result, the OAs. are dismissed, but there shall be no order as to costs.

/True copy/

sd/-

JOINT REGISTRAR  
dated 3.12.93

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