

CENTRAL ADMINISTRATIVE TRIBUNAL
PATNA BENCH, PATNA.
OA/050/00904/2016

Date of order : 04.03.2020

C O R A M

Hon'ble Shri Jayesh V. Bhairavia, Member [Judicial]
Hon'ble Shri Dinesh Sharma, Member [Administrative]



Binod Mandal, S/o Late Naresh Mandal, resident of Mohalla –
Lohia Nagar, PO – Katihar, District – Katihar.

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Applicant.

By advocate : Shri J.K.Karn

Vs.

1. The Union of India through the Secretary, Ministry of Railways, Rail Bhawan, New Delhi.
2. The GM, N.F. Railway, Maligaon, Guwahati.
3. The DRM, N.F. Railway, Katihar.
4. The Addl. DRM, N.F. Railway, Katihar.
5. The Sr. Divisional Mechanical Engineer, North East Frontier Railway, Katihar.

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Respondents.

By advocate : Shri Sheojee Prasad

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O R D E R [oral]

Per Jayesh V. Bhairavia , Member [J] : The applicant has filed the present OA for a direction upon the respondent authorities to revise/modify the panel of Loco Inspector dated 03.09.2015, as contained in Annexure-A/3, wherein while enlarging the earlier panel dated 01.01.2012 from 43 to 47, the earlier notified [UR-35, ST-3, SC-5, total 43] vacancies have incorrectly been modified to [UR-42, ST-3, SC-2, total -47] and SC vacancies have incorrectly been curtailed and ST vacancy has been left as it is instead of its proportionate enlargement.

The applicant has further prayed to accommodate the applicant against the ST vacancy by assigning appropriate addition in the vacancy position for ST category in the enlarged panel of 47 with all consequential benefits.

2. The case of the applicant in brief is that on 18th December, 2009 [Annexure-A/1], the Railway administration issued a notification for holding selection for the post of Loco Inspector. The applicant being ST category, participated in the Selection Test conducted on 30th Jan., 2010, 7th, 10th and 16th Feb., 2010.

3. The applicant contended that the Selection Committee on 28.05.2010 published a panel of selected candidates on the basis of seniority instead of merit, consequently despite getting 60 marks in the written test, he was deprived of the post of Loco Inspector. The panel published on 28.05.2010 was modified by another panel dated 01.11.2012 on the representation of one Shri Mahendra Mandal who belongs to ST category, wherein six unreserved candidates earlier empanelled in panel, were excluded.

4. The applicant submitted that thereafter the six excluded candidates filed OA No. 920/2012, which was decided on 27.11.2013 with a direction to the respondent authorities to finalize the panel in view of the observations made in the order.

5. The applicant submitted that the Railway Administration decided the matter of selection finally on 03.09.2015 enlarging the panel dated 01.01.2012 from 43 to 47 and included the six UR candidates, who were



excluded in the earlier panel dated 01.11.2012. The final panel was thus, published with UR – 42, ST-3, SC 2, total 47 persons against the notified vacancies of 43 [UR-34, ST-3 and SC-5], vide Annexure-A/3.

6. The applicant submitted his representations before the Sr. Divisional Mechanical Engineer, N.F .Railway, Katihar on 04.11.2015 [Annexure-A/4] and also before the ADRM, N.F. Railway, Katihar on 04.03.2016 [Annexure-A/5] raising his grievance that the panel was extended but the SC seats were lowered and UR Posts were enhanced. The applicant filed an application on 18.04.2016 [Annexure-A/6] under RTI, Act seeking information regarding consideration upon his aforesaid representations. The Public Information Officer-cum-Sr. Divisional Commercial Manager, N.F. Railway, Katihar on 02.06.2016 [Annexure-A/7], whereby the applicant's representations filed under RTI were disposed of stating therein that in reference to above information received from Sr. DME/IC/KIR, bearing No.M/202/GA/RTI/Pt-1 dated 18.04.2016 along with enclosures is enclosed which is self-explanatory. The Public Information Officer further stated that in case the applicant feels aggrieved with the decision of the PIO, Katihar or if he feels that the information demanded by him has been denied, he may file appeal to the appellate authority within 30 days.

7. The main contention of the applicant is that his legitimate and genuine claim has been left undecided, therefore, the respondent authorities may be directed to decide his grievance within a stipulated



time since the applicant's grievance is pending before the authorities since long.

8. On the other hand, the respondents filed their written statement and contested the case. The respondents submitted that a notification for selection to the post of Loco Inspector was issued for 43 posts [UR-35, SC-05 and ST -03] vide letter dated 23.09.2009. The applicant being ST community, participated in the selection test. His name was at Sl. No.01 of the additional list issued vide letter dated 04.01.2010 [Annexure-R/1].

9. The respondents submitted that the Railway Administration issued a memorandum dated 28.05.2010 on the basis of seniority wherein the applicant 's name did not find place. The respondents further submitted that Shri Mahendra Mandal who belongs to ST category filed a representation and considering his grievance another panel was published on 01.11.2012, wherein six unreserved candidates earlier empanelled in panel, were excluded. They approached this Tribunal in OA No.920/2012 and as per decision of this Tribunal, all the applicants of the aforesaid OA has been selected and posted as CLI, vide this office letter dated 03.09.2015. The respondents strenuously contended that in compliance of the order passed by this Tribunal in the aforesaid OA, the GM/NFR has issued instruction that the names of selected candidates be shown on the basis of seniority. Accordingly, a panel of 47 staff [UR-30, SC-08 and ST-09] has been issued vide letter dated 03.09.2015. In view of



the aforesaid submission, the Id. Counsel for the respondents submitted that the present OA has no merit and the same should be dismissed.

10. Heard Shri J.K.Karn, Id. Counsel for the applicant and Shri Sheojee Prasad, Id. ASC for the Railway respondents and perused the materials on record.

11. We have perused the order passed by this Tribunal on 6th August, 2013 in OA No. 920/2012, whereby this Tribunal disposed of the OA with direction to the Respondent No.2 to consider the matter in the light of observations in para 21 and 22 above and pass reasoned and speaking order within a period of three months from the date of receipt of the order. This Tribunal in para 22 of the aforesaid OA held that review of the panel at this stage cannot be allowed. The respondents may, however, reconsider the case of the applicants as well as intervenors in the light of observations made in this order keeping in view that applicants who were selected and promoted have worked on the post for a period of about two years or so.

12. It is noticed that admittedly the present applicant did not qualify in the written test held on 30th Jan., 2010, 7th, 10th and 16th Feb., 2010. Therefore, in our considered opinion, his claim does not survive. The OA lacks merit. Accordingly, the same is dismissed. No costs.

Sd/-

Sd/-

[Dinesh Sharma]M[A]

[Jayesh V. Bhairavia]M[J]

mps.