

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI

RA-231/2000 IN  
MA 1755/2000  
CP 198/2000  
OA 2607/1999

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Wednesday, this the 7th day of February, 2001

HON'BLE SHRI JUSTICE ASHOK AGARWAL, CHAIRMAN  
HON'BLE SHRI S.A.T. RIZVI, MEMBER (ADMN.)

1. The General Manager,  
Northern Railway, Baroda House,  
New Delhi.
2. The Divisional Railway Manager,  
Northern Railway,  
State Entry Road,  
New Delhi Railway Station,  
New Delhi.

Review Applicants  
Respondents in OA

(By Advocate: Mrs. Meera Chhibber)

VERSUS

Shri Vinay Rodrick Ballock,  
S/O Late Shri S.G. Ballock,  
R/O House No.374,  
Kirtan Wali Gali,  
Bajaria, Ghaziabad.

Respondent in RA  
Applicant in OA

(By Advocate: Shri K.M.M. Khan)

COMMON ORDER (ORAL)

Hon'ble Shri Justice Ashok Agarwal, Chairman:-

Review Application No.231/2000 has been instituted by and on behalf of the General Manager, Northern Railway and the Divisional Railway Manager, Northern Railway (hereinafter for the sake of convenience called as respondents and applicant in the OA being Shri. Vinay Rodrick Ballock will be called as applicant), who were respondents in OA-2607/99. By <sup>the</sup> an application, a review is sought of an order passed on 31.1.2000 in OA-2607/99 wherein claim made by the applicant for being appointed to the post of Carriage and Wagon Safaiwala Khallasi has been granted. Along with their RA,

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respondents have submitted MA-1755/2000 for condonation of delay in filing the RA. Applicant in turn has instituted on 22.5.2000, a Contempt Petition being CP-198/2000 alleging non-compliance on the part of the respondents of the directions contained in the order of 31.1.2000 in OA-2607/99. All the aforesaid proceedings are being disposed of by the present common order.

2. We have perused the relevant record in respect of the aforesaid proceedings. We have heard the learned counsel appearing for the contending parties and we hold that the respondents have made out good and sufficient cause for condoning delay in filing the RA. MA-1755/2000 is accordingly granted and the delay in filing the RA is condoned.

3. Review is sought by the respondents on the ground that the applicant had earlier instituted OA-1551/90 claiming the very same relief claimed in the later instituted OA-2607/99, namely, a direction to the respondents for appointing the applicant to the post of Carriage and Wagon Safaiwala Khallasi. By an order passed on 19.8.1994, aforesaid OA-1551/90 has been dismissed. In the circumstances, his prayer for being appointed to the post of Carriage and Wagon Safaiwala Khallasi has been rejected.

4. Applicant has thereafter proceeded to institute the present OA-2607/99 which was allowed by an order passed on 31.1.2000 and a direction was issued to the respondents to appoint the applicant to the post of

Carriage and Wagon Safaiwala. Aforesaid order is passed on the basis of order passed in certain earlier OAs which had been filed by other candidates seeking similar reliefs. By the present RA, respondents have sought review of the aforesaid order on grounds, inter alia, that applicant's ~~has~~ very same claim/prayer contained in his earlier OA-1551/90 has been rejected by an order passed on 19.8.94. Applicant in his OA-2607/99 has not disclosed the fact of his having filed the aforesaid OA-1551/90 and its rejection on 19.8.94. The applicant, in the circumstances, has not approached this Tribunal with clean hands. Jurisdiction of the Tribunal is <sup>akin</sup> ~~reckoned~~ to the one under Article 226 of the Constitution. The same is of <sup>an extra-ordinary and</sup> ~~a~~ discretionary nature. In case the applicant seeks to invoke the extra-ordinary and discretionary jurisdiction of the Tribunal, he has to come with clean hands. He has to disclose all the relevant & material <sup>facts</sup>. Supersession of material <sup>facts</sup> will dis-entitle him to claim the discretionary reliefs. By virtue of para 7 of Appendix A of the CAT (Procedure) Rules, it was incumbent upon the applicant to disclose the aforesaid vital fact of the dismissal of his earlier application. Moreover, the decision in the aforesaid OA-1551/90 would act as res judicata between the parties. Aforesaid order issued on 31.1.2000 in OA 2607/99 <sup>in the circumstances</sup> deserves to be reviewed.

5. ~~In our judgement, aforesaid contentions advanced on behalf of the respondents are well-founded and deserves to be accepted.~~ The RA-231/2000, in the circumstances, is granted and the order passed on 31.1.2000 is recalled.

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6. As far as OA-2607/99 is concerned, the same, in our view, is barred by ~~the~~ principles ~~of~~ analogous to res judicata. Claim made in the said OA has been specifically rejected in OA-1551/90. OA-2607/99 is accordingly dismissed.

7. As a consequence of the dismissal of the aforesaid OA, CP-198/2000 will no longer survive. The same is accordingly dismissed, <sup>No</sup> ~~without any~~ orders as to costs.



(S.A.T. Rizvi)  
Member (Admn)

  
(Ashok Agarwal)  
Chairman

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