

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI**

**O.A. No. 2706/97
T.A. No.**

199

13.4.98

DATE OF DECISION

Petitioner

Shri Yad Ram

Advocate for the Petitioner(s)

Shri K.M.M. Khan

Versus

Genl. Manager (NR) & Ors.

Respondent

& Mrs. B. Sunita Rao

Advocate for the Respondent

CORAM

The Hon'ble Smt. Lakshmi Swaminathan, Member (J)

The Hon'ble Shri K. Muthukumar, Member (A)

1. To be referred to the Reporter or not? Yes

2. Whether it needs to be circulated to other Benches of the Tribunal No.

Lakshmi Swaminathan
(Smt. Lakshmi Swaminathan)
Member (J)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH : NEW DELHI.

OA No. 2706/1997

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New Delhi this the 13th day of April, 1998

Hon'ble Smt. Lakshmi Swaminathan, Member (J)
Hon'ble Shri K. Muthukumar, Member (A)

Shri Yad Ram
R/O Village and Post Office-Meetli,
Tehsil-Baghpat,
District, Meerut (UP)

..Applicant

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

Vs

1. The General Manager,
Northern Railways, Baroda House,
New Delhi.

2. The Divisional Railway Manager,
Northern Railways,
State Entry Road,
New Delhi.

..Respondents

(By Advocate Mrs. B. Sunita Rao)

O R D E R (ORAL)

Hon'ble Smt. Lakshmi Swaminathan, Member (J)

Shri Khan, learned counsel for the applicant presses MA 669/98 for interim order, which he fairly concedes is similar to the main relief ~~as~~ prayed for in the OA. The applicant has sought a direction to the respondents to issue him the joining letter as C&W Safaiwala. He submits that persons junior to the applicant in the select list of C&W Safaiwalas (Annexure A) have received their appointment letters, whereas the same has been denied to the applicant. Shri Khan, learned counsel has drawn our attention to the case of Shri Om Prakash whose name appears at Sl. No. 56 whereas the applicant's name appears at Sl. No. 43 in the select list. In respect of Shri Om Prakash who had filed OA 1284/96, the Tribunal had noted that the respondents have issued letter dated 4.2.97 offering him appointment as Safaiwala and the OA was, therefore, disposed of as having become infructuous (Annexure K).

2. Mrs. B. Sunita Rao, learned counsel for the respondents

has submitted that as regards the select list, the same is still being operated upon, upto persons whose names appear at Sl.No.80 subject to Vigilance clearance. She has relied on the judgment of the Tribunal in Misri Lal and Others vs. Union of India and Another (OA No.1059/96 decided on 10.5.1989 (Annexure C)).

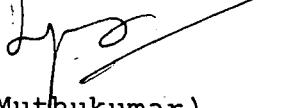
3. The applicant appears at Sl.No.43 in the aforesaid select list of C&W Safaiwalas. Since respondents have made offer of appointment to persons who are junior to him, including the one at Sl.No.56 on 4.2.97, we see no reason why a similar offer of appointment should not have been made to the applicant, subject to fulfillment of eligibility conditions ^{and} qualifications, including Vigilance clearance, as held in Misri Lal's case (supra). Inspite of several opportunities, the respondents have failed to file any reply, and it is not clear whether the respondents have made any offer of appointment to the applicant so far and he has failed to join duty in pursuance thereof. Therefore, taking into account the facts and circumstances of the case and the submissions made by the learned counsel for the parties, the OA is disposed of with the following directions:

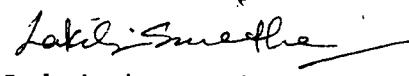
Respondents to consider the case of the applicant for appointment as C&W Safaiwala if not already done, and pass a detailed and speaking order within one month from the date of receipt of a copy of this order. The appointment of the applicant will be subject to availability of vacancy and fulfillment of eligibility conditions, including Vigilance clearance, but he will not be entitled to any back wages. In case the applicant has already

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been given an offer of appointment earlier but has failed to join the post for any reason, no fresh offer of appointment need be made in pursuance of this order.

No order as to costs.


(K. Muthukumar)
Member (A)


(Smt. Lakshmi Swaminathan)
Member (J)

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