

CENTRAL ADMINISTRATIVE TRIBUNAL
Principal Bench

O.A. No. 2480 of 1994

New Delhi, dated this the 10 January, 1997

HON'BLE MR. S.R. ADIGE, MEMBER (A)
HON'BLE DR. A. VEDAVALI, MEMBER (J)

1. Shri Paramjit Singh,
S/o Shri Mohinder Singh,
R/o 129/5, D.C.M. Railway Colony,
Opp. D.C.M.,
Delhi.
2. Shri A.K. Saxena,
S/o Shri Kurj Bihari Lal Saxena,
R/o 64/3, Lajwanti Garden,
Near Delhi Cantt.
New Delhi-110046.
3. Shri Vimal Kumar,
S/o Shri Banarsi Dass,
R/o 232-B, New Railway Colony No.3,
Jullundar City,
Punjab.
4. Shri Tarsem Lal,
S/o Shri Ramu,
R/o 245-F, New Railway Colony No.3,
Jullundar City, Punjab.
5. Shri Sushil Kumar,
S/o Shri Nom Chand,
House No.3185,
Gate No.9, South Patel Nagar,
New Delhi-110008.
6. Shri Satish Kumar,
S/o late Shri Faqir Chand,
18/10, Railway Colony,
Kishan Ganj,
Delhi-110007.
7. Shri K.P.S. Shota,
S/o Shri S.S. Sahota,
SE 23, Snigalpur Colony,
Shalimar Bagh,
Delhi-110052.
8. Shri Satyavir Singh,
S/o Shri Lal Singh,
WZ-1002, Tato No.16,
Sadih Nagar,
Palam Colony,
New Delhi-110045.
9. Shri A.K. Aggarwal,
S/o Shri M.C. Aggarwal,
6/13, Railway Colony,
Delhi Kishan Ganj,
Delhi-110007. APPLICANTS
(By Advocate: Shri G.D. Bhandari)

VERSUS

1. U.O.I. through
the Secretary,
Ministry of Railways,
Railway Board,
Rail Bhawan,
New Delhi.

2. The General Manager,
Northern Railway,
Baroda House,
New Delhi.

3. F.A. & C.A.O.,
Northern Railway,
Baroda House,
New Delhi.

4. Dy. Chief Accounts Officer (TA),
Northern Railway,
Krishan Ganj,
Delhi-110007. RESPONDENTS

(By Advocate: Shri R.L.Dhawan)

JUDGMENT

BY HON'BLE MR. S.R. ADIGE, MEMBER (A)

In this C.A. filed on 12.12.94 Shri Paramjit Singh and 8 others have sought the following reliefs:

(i) set aside and quash the memorandum dated 26.4.93 in respect of all the applicants whereby denovo/fresh disciplinary proceedings have been initiated on the same facts and charges as levelled in the charge memo dated 11.1.91 in respect of all the applicants which were later on withdrawn vide respondents orders dated 26.4.93 (Ann. A-3) being badly vitiated.

(ii) set aside and quash respondents order dated 8.10.90 whereby the candidature of all the applicants has been cancelled and they have been further debarred from taking the said exam. for 1990 being gravely vitiated as aforesaid.

(iii) direct/order/command the respondents to declare the result of the applicants of Appendix 3 Exam. conducted in Dec. 89 with all consequential benefits of promotion, seniority, wages, arrears thereof with interest @ 15% p.a.

(iv) any other relief together with costs.

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2. At the outset we have to address ourselves to the preliminary objections raised by the respondents that the applicants have not approached the court with clean hands. Respondents contend that although in para 7 of the present O.A. the applicants have stated on affidavit that they have not previously filed any application, writ petition or suit regarding the matter in respect of which the present application was made, before any court or any other authority or any other Bench of the Tribunal nor such application, writ petition or suit is pending before any of them, this contention is false in as much as these very applicants had filed O.A. No.3055/92 in which they had sought the following reliefs:

- (i) The Hon'ble Tribunal may be pleased to quash and set aside the Railway Board's letter No. A(E)/A-3/89 dated 8.10.90 and subsequent letters issued by respondent No.4 (Ann. A-2 to A-9) thereby the candidature of the applicants for Appendix III-A had been cancelled and they have been prevented from appearing in the said Exam. in 1990.
- (ii) The respondents be directed to declare the results of Appendix-III-A Exam., 1989 in respect of the applicants and they be declared deemed to have passed in the said exam. with all consequential benefits such as promotion to the rank of Section Officer (A/cs), Inspector of Station Accounts and Inspector of Stores Accounts before their juniors and fixation of seniority etc. under extant rules.

3. It is not denied that the impugned orders dated 8.10.90, as well as the Appendix-III Exam. of 1989 referred to in the two O.As are the same.

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4. During the course of hearing applicant's counsel had offered to withdraw O.A. No. 3035/92 which was in fact subsequently withdrawn. It was also contended that relief no.(i) in the present O.A. impugning respondents Memo dated 26.4.93 is a subsequent development which was not impugned in the earlier O.A. Respondents' counsel has however contended that the subsequent withdrawal of O.A. no. 3035/92 does not change the factual position that at the time the present O.A. was filed No. OA-3035/92 filed by the very applicants was pending before the Tribunal, in which the present applicants had prayed for the same reliefs as set out in reliefs (ii) and (iii) of the present O.A., and despite that they had in the present O.A., sworn on affidavit that no application was pending regarding the matter in which the present application was made.

5. From the materials on record there is no doubt that at the time the present O.A. was filed, OA No. 3035/92 was pending before the Tribunal in which the same applicants had sought two of the three reliefs pressed in the present O.A. Despite that in the present O.A. they filed an affidavit stating that no application was pending regarding the matter in which the present application was made. The fact that O.A No. 3035/92 was subsequently

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withdrawn and that relief No.(i) in the present O.A. is a subsequent development does not change the factual position and therefore the preliminary objections raised by the respondents that the applicants by filing a false affidavit have not come to the Tribunal with clean hands, and have therefore forfeited their right to have their grievance considered by the Tribunal is sustained.

6. Filing a false affidavit before the Tribunal is a serious offence and we would have been justified in proceeding separately against the applicants on this charge in accordance with law. However, in the facts and circumstances of this case, we do not propose to do so, and consider it sufficient to administer to them a stern warning not to repeat such conduct in future. Furthermore as the applicants have not come to us with clean hands, we do not propose to go into the merits of their case, and after upholding the preliminary objection raised by the respondents, dismiss the O.A. without any order as to costs. Interim orders if any stand vacated.

7. However, we make it clear that this will not preclude the applicants from raising the grounds taken in their pleadings before the competent ^{departmental} authorities, if so advised and in the event that such authorities pass an order which gives rise to a fresh cause of action, it will be open to the applicants to

agitate the same through fresh proceedings
in accordance with law, if so advised.

8. This O.A. is disposed of in terms of
para 6 and 7 above. No costs.

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A. Vedavalli

(Dr. A. Vedavalli)
Member (J)

/GK/

S.R. Adige
(S.R. Adige)
Member (A)