

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH,  
NEW DELHI

(12)

OA No.635 of 1990

Date of decision 31st July, 1991

Gopal Singh and others .... Appellants

versus

Union of India through General Manager,  
Northern Railway, Baroda House,  
New Delhi ... Respondents

Court : Hon'ble Mr. B.S.Sekhon, Vice Chairman.  
Hon'ble Mr. I.K.Rasgotra, Administrative Member.

For the appellants - Shri J.K.Bali, Advocate

For the respondents - Shri O.N.Moolri, Advocate.

B.S.SEKHON, VC:

Present is a joint Application. The same is directed against the order dated 15th March, 1990 (Annexure A-1). By virtue of the impugned order, the selection process conducted for the post of first Firemen Grade Rs.950-1500 (RPS) initiated vide circular letter of even number dated 31st August, 1988 (Annexure A-2), has been cancelled. By virtue of Annexure A-2, the officials incharge concerned were directed to spare 382 ad hoc first Firemen and Firemen-II including the applicants to appear in the written test for the post of first Fireman. Saying that they had qualified in the written test, applicants have averred that 377 employees including the applicants have been again called for the written test vide Divisional Personnel Officer Bikaner letter No.PLK(R)/755EM/Fireman/Selection/X dated 3-4-90 (Annexure A-5).

2. The salient grounds on which applicants have impugned Annexure A-1 are that the same is violative of principles of

the earlier DA Viz. OA 1762/90 was dismissed on the ground of its

the question of seeking ~~such~~ remedy does not arise. Since  
deputation

applications for assessing the impugned order. In view thereof,

respondents. There is no statutory remedy available to the

little merit in the plaintiff's ground raised by the

5. It may be stated at the very outset that there

and the documents on record.

concern for the parties and have also considered the plaintiff's

4. We have heard the arguments adduced by the learned

that the higher authorities are competent to hold fresh selection.

the alleged violation of the principles of natural justice adding

Annexure R-5. Respondents have also controverted the plea about

and accordingly fresh selection have been ordered vide

looking at the technical irregularities cancelled the selection

regularly and subsequently which due deference to that basis and

tribunal's holding cancellation of the said selection and the

irregularities. A number of employees had approached the

canceled vide orders of the competent authority due to technical

exhausted the departmental remedies. The selection has been

is judicial, the same is not justifiable as appellants have not

the grounds that the application is based by the plaintiff's

3. Respondents have raised the application, inter-alia, on

as follows-I.

discreased to call them for interview and consider them for appointment

have prayed that Annexure A-1 be quashed and the respondents be

dismissed in nature. With the aforesaid averments, applicants

of selection process initiated by a Selection Board which are

and the higher authorities cannot interfere with the exercise

authorities concerned cannot act arbitrarily or unreasonably

natural justice and is also liable to be quashed as the

VA

having been rendered infructuous, the plea of the Application being barred by limitation is clearly unsustainable. The principles of res judicata would be applicable only if the matter between the same parties has been decided on merits by a competent court. Such is not the case here. This plea is accordingly hereby negatived.

6. Turning to the merits, it may be stated that Annexure A-5(R-5) has been issued pursuant to the communication dated 26th March, 1990. The aforesaid communication had been impugned in OA 621 of 1990 titled 'Shri Ram Kumar and another vs. Union of India and others'. The OA has been disposed of vide our judgment dated 30th July, 1991. By virtue of the aforesaid judgment, the communication dated 26th March, 1990 has been quashed. The main grounds on which this communication has been quashed are that the vacancies of Fireman-I (previously designated as Fireman 'A') which arose prior to 1-1-86 were required to be filled up in accordance with the Recruitment Rules which were in force prior to 1-1-86 and the vacancies which had arisen subsequent to 1-1-86 were to be filled up according to the Recruitment Rules laid down in Railway Board's letter No. E(NG) 194-PM7-56 dated 3rd November, 1987. As per the operative portion of the decision in Ram Kumar(supra), the communication dated 26th March, 1991 was quashed with the observations that that order will not preclude the respondents from taking fresh steps to fill up the vacancies of Fireman-I which had arisen subsequent to 1-1-86 in accordance with the Recruitment Rules laid down in Annexure A-3 and from filling up the vacancies of Fireman 'A' which arose prior to 1-1-86 in accordance with the Recruitment Rules which were in force during the period anterior to 1-1-86. With the quashing of the communication dated 26th March, 1990, Annexure A-1 also falls down. In view of the foregoing, the question

of holding fresh selection on the basis of Annexure A-5 does not arise. That being so, the questions of validity of the impugned order, Annexure A-1 in this case and of directing the respondents to call the applicants for interview and consider them for empanelment as Fireman-I do not survive, thereby rendering the instant Application infructuous.

7. In the premises, the Application is hereby rejected on the ground of its having been rendered infructuous, but in the circumstances, we make no order as to costs.

*Delhi*  
(I.K.RASGOTRA)  
AM 31/7/91

*B.S.Sekhon*  
(B.S.SEKHON)  
VC  
31-7-91

IRK