

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

OA No.968/90

Date of decision: 03.08.1993.

Shri Naurat Mal Kumawat

...Petitioner

Versus

Union of India through the
Secretary Ministry of
Railway, Rail Bhawan,
New Delhi & Others

...Respondents

Coram:-

The Hon'ble Mr. I.K. Rasgotra, Member (A).
The Hon'ble Mr. B.S. Hegde, Member (J).

For the petitioner Shri S.K. Bisaria, Counsel.

For the respondents Shri P.S. Mahendru, Counsel.

Judgement(Oral)
(Hon'ble Mr. I.K. Rasgotra)

The petitioner has assailed the order dated 16.5.1990 issued by the respondents, according to which the name of the candidate at serial No.2 in the select list issued on 15.5.1990 is substituted by Shri Naurat Mal son of Shri Jagan Nath vide order dated 16.5.1990. The case of the petitioner is that he was appointed as a Khalasi (Group 'D') in 1972. He was promoted on ad hoc basis as Ticket Collector on 10.1.1987. He continued to work upto 4.1.1988 when he was reverted to his substantive post. He was again promoted as Ticket Collector w.e.f. 10.2.1989 on ad hoc basis in which post he continued till he filed this petition on 21.5.1990. On 25.5.1990 when the case came up for admission notice was issued to the respondents. By way of interim relief the respondents were directed to allow the applicant to work as Ticket Collector in the scale of Rs.950-1500. By virtue of this interim order the petitioner is continuing to work as Ticket Collector. The respondents held a selection

test for Group 'D' employees for promotion to Group 'C' posts like Trains Clerks, Ticket Collectors. The petitioner appeared in the said selection test and was declared successful in the written test vide circular letter dated 30.6.1989. His name appears at srl. No.52 and that of Shri Naurat Mal (J) at srl. No.108. The petitioner was subsequently interviewed and in the final result declared on 15.5.1990 was placed at srl. No.2 in the select list for Ticket Collectors. The respondents thereafter issued a corrigendum on 16.5.1990 which has been impugned by the petitioner. Vide the said corrigendum dated 16.5.1990 it was clarified that Shri Naurat Mal Kumawat's name would be substituted by Naurat Mal son of Shri Jagan Nath. As far as the above facts are concerned they are not in dispute. Admittedly the petitioner was working as Ticket Collector on ad hoc basis. It is also not disputed that he appeared in the selection test and was placed at srl. No.52 in the list of candidates declared successful in the written examination. It is also not disputed that Shri Naurat Mal son of Shri Jagan Nath was placed at srl. No.108 in the list of candidates declared successful in the written examination.

2. Shri P.S. Mahendru, learned counsel for the respondents drew our attention to the preliminary objections taken in the counter-affidavit. The first objection is that the application is barred under Section 20 and 21 of the Administrative Tribunals Act, 1985. The learned counsel emphasized that the corrigendum to the result published on 15.5.1990 was issued on 16.5.90. The petitioner filed a representation against the corrigendum on 17.5.1990 and soon thereafter on 21.5.1990 he filed the O.A. without waiting for the disposal of his representation.

3. The next objection raised is regarding jurisdiction of the Tribunal. The petitioner is working on the Western Railway and the jurisdiction would be either that of Jodhpur or Bombay Bench. As far as the jurisdiction is concerned, there is an order of the Hon'ble Chairman dated 23.5.1990, allowing the application to be retained at the Principal Bench. The learned counsel for the respondents also admits that the petition is not barred by limitation under Section 21 of the Administrative Tribunals Act, 1985. This leaves the only objection that the petitioner filed the O.A. without waiting for the disposal of his representation. Had the petitioner waited for the disposal of his representation he would have no doubt been reverted from the post of Ticket Collector. Apprehending his reversion, he approached the Tribunal and the Tribunal after hearing the learned counsel for the petitioner granted interim relief. The issue was not contested when the respondents entered appearance on 7.6.1990 when the interim order was continued until further orders. In these circumstances, we are not inclined to go into this aspect of the matter at this stage. On merits the respondents have broadly admitted the facts of the case. They have no material to show that Shri Naurat Mal Kumawat, petitioner herein was by mistake incorporated at serial No.2 in the select list dated 15.5.1990 instead of Shri Naurat Mal son of Shri Jagan Nath. Shri Naurat Mal Kumawat was at srl. No.52 in the written test whereas Shri Naurat Mal (J) at srl. No.108. Assuming that there was a mistake in the final list it is incomprehensible as to how Shri Naurat Mal Kumawat disappeared completely from the select list whereas Shri Naurat Mal son of Shri Jagan Nath came up from the 108 position in the written test to the second position in the

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select list by virtue of the marks he obtained in the interview. It is well known that marks for interview are so limited as not to make such a vast difference in final result.

4. In view of the above facts and circumstances of the case and in absence of any material to justify the issue of corrigendum dated 16.5.1990 we have no alternative but to set aside and quash the said corrigendum. Accordingly Shri Naurat Mal Kumawat shall continue to be at srl. No.2 of the select list circulated on 15.5.1990.

5. The O.A. is disposed of as above. No costs.


(B.S. HEGDE)
MEMBER (J)


(I.K. RASGOTRA)
MEMBER (A)

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