

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

(17)

O.A. No. 3007 of 1992

6.1.99

Date of order:-----

CORAM: Hon'ble Shri S.R.Adige, Vice Chairman.
Hon'ble Shri Jasbir S. Dhaliwal, Judicial Member.

1. Shri Sukh Raj Singh, s/o Sh. Chanchal Singh.
2. Shri Rakeshwar Singh Kanwar s/o Sh. Sadhu Ram Kanwar
3. Shri Tarsem Singh s/o Sh. Gurdip Singh,
Trainee Apprentice Asstt.Chargemen (Mechanical)
Northern Railway, Supervisors Training Centre,
Charbagh, Lucknow.

....Applicants.

(BY SHRI B.S.MAINEE, ADVOCATE)

VERSUS

1. The General Manager, Northern Railway,
Baroda House, New Delhi.
2. The Chairman,
Railway Recruitment Board, Jammu Tawi
3. The Principal,
Supervisors Training Centre,
Northern Railway, Charbagh, Lucknow.

...Respondents.

(BY SHRI P.S.MAHENDRU, ADVOCATE)

O R D E R

(Hon'ble Shri Jasbir S. Dhaliwal, JM)

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This OA has been filed by three persons, namely, Sarv Shri Sukh Raj Singh, Rakeshwar Singh Kanwar and Shri Tarsem Singh. They all plead that they are railway employees and were working under the DCME, Amritsar. They were all holders of four years' diploma in Mechanical Engineering. Respondent No.1 had put a demand for

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recruitment of Apprentices/Asstt. Chargeman (Mechanical Grade) in the scale of Rs. 1400-2300 to the Chairman, Railway Recruitment Board (RRB). Respondent No.2 got an advertisement published in the Employment News dated 9-11-90, calling applications from different categories (A-2). For category No.9, applications were called for 118 vacancies of Apprentice Chargeman Mechanic. Since the applicants fulfilled all the eligibility conditions, they sent their applications. Thereafter they were called and subjected to written examination, which they all passed and thereafter were called for interview and were declared successful. Chairman, RRB, Jammu Tawi forwarded a panel No. 206-A to GM, Northern Railway, Baroda House, which included the names of the applicants. Respondent No.2 sent individual letters to the applicants informing them that on the basis of written test held on 17-2-91 and interview held in March, 1991 at Jalandhar, their names had been recommended to GM, Northern Railway, New Delhi for appointment. Copies of these letters are Annexure A-3. They were subjected to medical examination and after being declared medically fit (A-4), an agreement was executed by the applicants with the respondents and thereafter offers of appointment were issued on 15-6-92 to all the three applicants (A-5). They were to undergo training for a period of two years during which they were entitled to the scale of Rs. 1320-30-1350 per month with DA. They joined training at Charbagh Lucknow on 17-6-92. On 5-11-92, they all fell ill and could not attend the classes on 6-11-92 onwards. During this period of sickness, they came to know that respondent No.1 had issued orders to respondent No.3 to terminate their apprenticeship with immediate effect. Respondent No.3 issued a letter on 6-11-92 (A-1) addressed to the Chief Instructor to terminate the apprenticeship of the applicants. They claim that this letter has not been served on them and they rushed to the

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Tribunal. Pleading that they were duly successful and thereafter letters of offer had been given to them and they were undergoing training, they pray for quashing the impugned order, vide which their apprenticeship is sought to be terminated. They had made prayer for interim relief also to restrain the respondents from giving effect to the impugned orders, but such relief was not granted to them by the Tribunal.

2. Respondents contest the case of the applicants, pleading that they have not come to the court with clean hands. While admitting that advertisement was issued for recruitment to the posts of Apprentice Asstt. Chargeman (Mechanic) by RRB Jammu/Srinagar for many posts, including 118 posts of this category, they plead that none of the applicants applied for the post. Master list prepared does not show their names at all. The roll numbers mentioned by the applicants, in fact, belong to three other persons, namely, Harnam Singh, Manoj Batra and Manoj Kumar. Applicants did not appear in the written test and were not called for interview. Therefore, the question of their being selected does not arise. The result of the written test was published and thereafter the final result was also published in local newspapers, including Indian Express and copies of the same are Annexures A-4 and A-5 dated 6-3-91 and 23-3-91. Only Shri Manoj Batra with roll No. as 96679 had qualified and was finally selected. A panel of 85 candidates was sent. The panel mentioned by the applicants as Panel No. 206-A is a bogus panel and not supplied by the office of RRB. The letters of offer produced by the applicants are also bogus and were never issued by RRB Jammu/Srinagar. The applicants had secured appointments by unfair means and fraudulently. After finding out the fraud,

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confidential instructions were issued under which their apprenticeship fraudulently obtained was terminated through letter dated 6-11-92.

3. Applicants have filed a rejoinder. Both the learned counsel Shri B.S.Mainee and Shri P.S.Mahendru have been heard. Shri Mahendru also produced a part of the official record relevant in this OA, which we have examined.

4. It could not be disputed by the applicants that the result of the written test and the final result after interview were published in the newspapers, copies of which have been produced by respondents as Annexures A-3 and A-4 at pages 47 and 48 of the paper-book. Therein only roll No. 96679 is shown to have qualified in the written test as well as in the interview, whereas Shri Tarsem Singh and Sukh Raj Singh who claim to have roll Nos. 96680 and 96131 respectively do not find mention in the list of the successful candidates published in Indian Express on 6-3-91 and 23-1-91. As far as these two applicants are concerned, they have absolutely no case and it becomes more probable that letters of offer issued to them or obtained by them possibly could not have been genuine. If they did not find a place in the list of successful candidates, they developed no right at all of even being allowed to join the training of two years. Termination of these two persons from the training would thus be perfectly legal.

5. None of the applicants could show us any other document which could indicate their being successful either in the written test or in the final test. In fact, apart from the copies of letters alleged to be letters of offer, they could not produce any other document viz. a call letter inviting them to appear in the written test, admit card, or the roll numbers issued ~~to them~~ etc. etc.

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6. Coming to the case of Shri Rakeshwar Singh Kanwar, who has joined the other two applicants in this OA, we have been shown the master list placed at Annexure A-5 by the respondents at pages 49 and 50 which show that roll No.96679, in fact, belongs to one Shri Manoj Batra son of Shri I.M. Batra. That Shri R.S.Kanwar was given this roll No. is not substantiated by any proof by him. In these circumstances, we have to believe the respondents that their ^(applicant) claim is bogus.

7. All the applicants argue that they had been duly put to written test, interviewed, and issued letters of offer of being found sucessful and, therefore, they have developed a right to hold the post. Such a right could not be taken away without adhering to principles of natural justice. The doctrine of audi alteram partem stands violated in their case. The termination order entails civil consequences and is also indicative of arbitrariness and illegality. At this juncture, we are reminded of a judgment by a DB of Central Administrative Tribunal, Chandigarh Bench in the case of Brij Mohan and others vs. Union of India and others, reported as (1995) 30 ATC 502, in which identical facts and identical issues were involved. This judgment adjudicated about 16 Original Applications filed by persons similarly placed like the applicants. That also related to a selection held by the RRB Jammu/Srinagar, wherein a number of persons had claimed that they had been found successful as per the panels prepared by the RRB for the posts of Asstt. Station Masters, Train Clerks, Commercial Apprentice Mechanics, Skilled Fitters, Goods Clerks and Senior Clerks. There also the respondents' stand was that the applicants had obtained appointment by fraud on the basis of bogus panels parepared, which were detected by the Railway Board and they had put an end to their training or

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appointment or the selection itself. These were the panels prepared on the basis of the selection process held in 1991 and panels prepared in 1992. Similar letters of offer, as in the present case, had been produced. We also find that similar grounds were taken by the applicants, as are being taken in the present case. The Bench had observed that all the applicants had failed to place before the Bench the admission letters/ cards bearing their roll numbers and complete address, through which they could have been called and allowed to appear in the written test. There also the applicants had staked their claim to the selection with a right to continue in training, only on the alleged letters of offer. Chandigarh Bench had negatived their claims, while dismissing their OAs, passing the judgment on detailed reasoning and ^{based on} a number of judgments passed by the Hon'ble Supreme Court and other Benches of the Tribunal. The Bench had observed that applicants' status in the respondent-organisation appeared to have been mainly the result and outcome of offers of appointment based on fake selection panel, prepared and followed by such others which have been found to be bogus by the respondents. It had been mentioned that on enquiry the letters of offer of appointment/selection/training were found to be based on forged documents prepared in some cases with the connivance of the staff of RRB and the ends of justice warranted immediate action to undo the wrong committed by the applicants and that justice demanded their termination. It took the view that no court or Tribunal can be allowed to be used with a view to perpetuate an illegality and thereby defeat the ends of justice. The appointment/selection being based on fake/forged/fabricated selection panel and in the eyes of law having never come into existence, their removal could not be assailed on the basis that before issuing orders they were not afforded any opportunity of being heard.

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Court placed reliance on the case of U.P. Junior Doctors Action Committee v. B. Sheetal Nandwani - 1992 Supp (1) SCC 680, and the case of Union Territory of Chandigarh vs. Dilbagh Singh - 1993 SCC (1) 154. In the latter's case, a select list was found by the respondents to have been prepared in unfair and injudicious manner. After finding the same to be prepared in bad faith, it was cancelled. The Hon'ble Supreme Court held that neither the members of the selection board which had prepared that select list, nor the selectees were entitled to any opportunity of hearing before cancellation.

8. We need not repeat the reasoning in detail as given by the Chandigarh Bench. Suffice it to say that we find that the present claim of the applicants is also based on a similar bogus panel forged by some persons under which the applicants claim a title which legally did not exist.

In the case of Union of India and others vs. M. Raskaran

1996 Labour & Industrial Cases 581 (S.C.), the Hon'ble Supreme Court had also considered a similar question again, wherein Govt. employment had, in fact, been obtained on forged casual labour cards. After some years, the fraud was detected and their services were terminated. The court held that such orders of appointment could be validly recalled as these were voidable at the option of the employer concerned. The cancellation/termination amounted to recall of fraudulently obtained erroneous appointment orders. By mere passage of time, fraudulent practice would not get any sanctity and if any lenient view is taken, it would amount to putting premium on dishonesty and sharp practices.

(A)

9. In the present case apart from the stand taken by the respondents that bogus panels have been prepared in the name of RRB Jammu/Srinagar, instances of which find confirmation from the 16 OAs decided by the Chandigarh Bench in the judgment of "Brij Mohan" (supra), we have also been shown the file indicating that criminal cases have been registered against preparation of such bogus panels and persons involved are facing criminal trials which are still pending. Besides this, the Chairman, RRB Jammu Srinagar has filed his own affidavit certifying that the selection letters produced by the applicants in this OA are bogus and carry forged signatures of the Chairman, RRB Jammu /Srinagar. These selection letters (letters of offer) were never issued by RRB Jammu/Srinagar. He has further, through this affidavit, affirmed that three roll numbers claimed by the applicants belong to Harnam Singh, Manoj Batra and Manoj Kumar, and not to the applicants. The RRB issued only Panel No. 207 dated 20-3-81 for 85 candidates to Rail Coach Factory, Kapurthala and another panel No. 206 dated 20-3-91 for 39 candidates to GM (P), Northern Railways. He has further stated on oath that panel No. 206-A was not supplied by the office of RRB Jammu/Srinagar and none of the three applicants have been selected by that RRB.

10. We are of the opinion that the stand taken by the respondents is correct. No right under the law has accrued to the applicants on the basis of forged panel and forged or wrongly prepared letters of offer. Adherence to principles of natural justice in such fraudulent transaction is not required in view of the judgments mentioned above.

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11. For the reasons mentioned above, this OA is
dismissed. No costs.

Jasbir S. Dhaliwal
(JASBIR S. DHALIWAL)
JUDICIAL MEMBER

S. R. Adige
(S.R. ADIGE)
VICE CHAIRMAN

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