

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH  
ALLAHABAD

Original Application No.1141 of 1996

Allahabad this the 21st day of February, 2003

Hon'ble Mr. Justice R.R.K. Trivedi, V.C.  
Hon'ble Maj Gen K.K. Srivastava, Member (A)

Shyam Bihari Prasad, son of Late Sri S. Ram, aged about 56 years, R/ø Quarter No.202-F, D.L.W.Colony, Varanasi.

Applicant

By Advocate Shri O.P. Gupta

Versus

1. General Manager(P) D.L.W. Varanasi.
2. Union of India through Secretary, Ministry of Railway, Govt. of India, New Delhi.
3. Bachanoo Ram working as A.P.O. in the Office of D.L.W., Varanasi.

Respondents

By Advocate Shri Amit Sthalekar

O R D E R ( Oral )

By Hon'ble Mr. Justice R.R.K. Trivedi, V.C.

By this O.A. under Section 19 of the Administrative Tribunals Act, 1985, the applicant has prayed for a declaration that selection, promotion and posting of respondent no.3 by order dated 26.06.96 and 16.09.96 is illegal, arbitrary and is liable to be set aside.

2. The facts of the case are that the selection proceeding was initiated for the post of Assistant Personnel Officer(for short A.P.O.)-Group 'B' post in D.L.W., Varanasi. Written test was held on ...pg.2/-



12.6.96 and 26.6.96. On the basis of written examination, 6 candidates including the applicant were notified and were called for viva voce. Viva voce test was held on 24.07.96. Thereafter, the respondent no.3 was selected for appointment. Aggrieved by which, the applicant has approached this Tribunal. Counsel for the applicant has submitted that the applicant was senior most. He secured highest marks in the written test. His service record was absolutely clean and he was a S.C. candidate and he ought to have been selected for the post.

3. <sup>Resisting</sup> Resisting the claim of the applicant, counter-affidavit has been filed by the respondents wherein it has been stated that the applicant could not perform well in viva voce test and could not secure the minimum marks, hence he was not selected. Selection was done by a committee. Six candidates who qualified the written test, were inter-viewed. Their service records were examined and then respondent no.3 was selected. It is difficult for us to interfere with such selection. The legal position is well settled that Court cannot substitute itself <sup>for</sup> ~~as~~ the Selection Committee. Members of the Committee exercised their discretion in best manner and if the applicant was not selected, he cannot <sup>say</sup> ~~say~~ that the exercise was arbitrary. We do not find any good ground to interfere. Even otherwise, the applicant has already retired from service. The O.A. has no merit and is rejected. No order as to costs.