

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH  
ALLAHABAD

ORIGINAL APPLICATION NUMBER 271 OF 1996

ALLAHABAD THIS the 01st DAY OF SEPTEMBER, 2003

HON'BLE MR. JUSTICE R.R.K. TRIVEDI, VICE-CHAIRMAN  
HON'BLE MR. D. R. TIWARI, MEMBER (A)

1. S.D. Tripathi aged about 43 years  
s/o Late Shri K.N. Tripathi, resident of  
Gram Jangal Ram Lakhna, P.O. Raiganj Bazar,  
Thana Khorabar, District Gorakhpur.  
Ticket No.E/1451, Instrument Mechanic Grade I,  
G.E.R. Shop, Under Deputy Chief Electrical Engineer,  
Workshop, Gorakhpur.
2. Jagar Narain Tripathi aged about 40 years son of  
Shri K.N. Tripathi resident of Mohallah Bichiyya,  
District Gorakhpur working as Air Conditioning  
Mechanic Grade I, under Electrical Foreman,  
Air Conditioning Gorakhpur.

.....Applicants

(by Advocate : Shri S. Agarwal & Ajay Bhanot)

V E R S U S

1. Union of India through the General Manager,  
North Eastern Railway, Gorakhpur.
2. Chief Electrical Engineer(Workshop), North Eastern  
Railway, Gorakhpur.
3. Divisional Electrical Engineer (Workshop),  
North Eastern Railway, Gorakhpur.

.....Respondents

(by Advocate : Shri V. K. Goel)

O R D E R

By Hon'ble Mr. Justice R. R. K. Trivedi, Vice-Chairman

By this O.A. filed under section 19 of Administrative  
Tribunals Act, 1985, applicants have prayed for a direction to  
respondents to appoint them on the post of Inter Apprentice

// 2 //

Mechanic (Electrical) in the grade of Rs.1400-2300/- with antedated seniority for which they are fully eligible.

2. The facts of the case are that applicants were serving in the Railways as Fitter. They appeared in the test for appointment as Inter Apprentice Mechanic (Electrical) for which notification was issued on 10.03.1992. The written examination was held on 20.10.1992 in which applicants qualified, then they were called for interview. When the final panel was declared on 21.11.1992 there were only 5 names and the applicants were not selected. Aggrieved by which applicants have approached this Tribunal by filing the present O.A. Learned counsel for the applicant has submitted that there were total 38 posts of Electrical Chageman Gr.'B' and the 25% of the total posts was to be filled in from Inter Apprentices. However, the respondents illegally prepared a panel of only 5 candidates and the applicants were denied, though they had ~~fully~~<sup>fully</sup> qualified in both the tests.

3. Learned counsel for the respondents on the other hand submitted that the contention of the applicants is not correct. In the notification issued on 10.03.1992, it was clearly mentioned that only 5 posts are available for appointment as Inter Apprentices and the selection shall be done for the same who possess the necessary qualifications. Counsel for the respondents has submitted that the respondents rightly prepared a panel of 5 candidates and this position was clear from the very beginning.





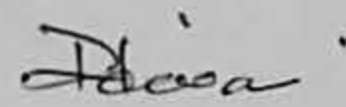
4. We have considered the submissions made by counsel for the parties.


5. From the representation of the applicant dated 10.06.1994, it is clear that applicants were aware from the very beginning that the notification dated 10.03.1992 requires filling up of 5 posts only <sup>for</sup> Inter Apprentices and thus, the submission made by the applicant's counsel, that they were unaware that selection is only for 5 posts <sup>is not correct</sup>. In the subsequent letter dated 05.10.1992 posts were not mentioned correctly. Learned counsel for the applicant has relied on the judgment of Hon'ble Supreme Court in the case of GUJRAT UNIVERSITY VS. RAJIV GOPINATH BHATT & ORS. JT 1996(5)S.C. 333. We have perused the <sup>judgment</sup> ~~case~~. The case before Hon'ble Supreme Court was <sup>regarding</sup> ~~the~~ Admission of Super Speciality Course of Master of Chirurges. ~~with regard to the admission in a course~~. The position is different and it cannot be compared with a case where employer wishes only to fill up certain vacancies though at that time there may be more vacant post. The legal position is well settled that employer cannot be compelled to fill up all the posts available in his organisation or institution. The judgment of Hon'ble Supreme Court does not help the applicants in the present case.

6. Considering the facts and circumstances and on perusal of the original record placed by Shri V.K. Goel, counsel for the

// 4 //

respondents, we are satisfied that the selection was justified and does not suffer from any error of law. At this stage we however, make it clear that this order will not effect the claim of the applicants, if there were more posts available <sup>and</sup> ~~then~~ they are notified subsequently for selection, <sup>from</sup> ~~As~~ records<sup>u</sup> produced, <sup>at how</sup> it is not clear that ~~only~~ 5 posts were available for quota of Inter Apprentices. The O.A. is accordingly dismissed with no order as to costs.

  
Member (A)

  
Vice-Chairman

shukla/-