

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH, ALLAHABAD.

Allahabad, this the 6th day of October, 2003. (16)

QUORUM : HON. MR. JUSTICE R.R.K. TRIVEDI, V.C.

HON. MR. D. R. TIWARI, A.M.

O.A. No. 217 of 1997

Suresh Chandra Pandey S/O Shri L.S. Pandey R/O 46, Engineering Colony, N.E. Railway, Pilibhit.

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..... Applicant.

Counsel for applicant : Sri A.S. Dewakar.

Versus

1. Union of India through General Manager, N.E. Railway, Gorakhpur.
2. Divisional Railway Manager (Personnel), N.E. Railway, Izatnagar, Bareilly.
3. Assistant Engineer/Line, Izatnagar, Bareilly.
4. R.C. Pant, Jr. Engineer-I (Works), Kashipur, Nainital.
5. Dinesh Gopal Sharma, Jr. Engineer-I (Works), Pilibhit.
6. Mahesh Chandra Pandey, Jr. Engineer-I (Works), Kasganj, Etah.....

..... Respondents.

Counsel for respondents : Sri A.K. Gaur.

O R D E R (ORAL)

BY HON.MR.JUSTICE R.R.K. TRIVEDI, V.C.

By this O.A. filed under section 19 of A.T. Act, 1985, applicant has prayed for quashing the result dated 26.2.1997 (Annexure-10) by which the panel of selected candidates for the post of I.O.W. Grade-I in the scale of Rs. 2000-3200 was declared on 13.1.1997.

2. The case of the applicant is that he was fully eligible for being promoted as I.O.W. Grade-I and his name was also included in the notification dated 13.1.1997, which contained a list of Junior Engineers, who were required to be relieved for appearing in the written examination scheduled to be held on 25.1.1997 and supplementary examination for those who could not appear on the first date.



3. The grievance of the applicant is that though he was intimated the date for appearing in the examinations but the Assistant Engineer/Line, Izatnagar, Bareilly under whom he was posted, did not relieve him and thus, he could not be appear~~ed~~<sup>ed</sup> in the main examination or the supplementary examination. The applicant has also prayed that Respondents be directed to allow him to appear in the examination conducted for ICW, Grade-I.

4. Resisting the claim of the applicant, Respondents have filed counter reply. In para 14 and 20 of the counter reply, respondents have denied the allegation of the applicant and it has been asserted that notice was given to applicant to appear in the examination but he failed to appear. However, in both these paragraphs 14 and 20 of the counter reply respondents have kept mum with regard to the averment of the applicant that he was not relieved by the Assistant Engineer for appearing in the examination. For the purpose of this case it was a very vital question and ought to have been replied specifically. Sri A.K. Gaur, counsel for respondents further submitted that applicant is not entitled for relief for quashing the result dated 26.1.1997 (Annexure-10) as in result, total six candidates were declared successful but applicant has impleaded only three persons and remaining persons have not been arrayed as respondents. Thus, he is not entitled for relief. Reliance has been placed on the judgment of Hon'ble Supreme Court in case of All India SC & ST employees Association and Another Vs. A. Arthur Jeen & others JT 2001(8) SC 42.

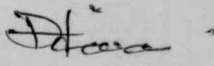
5. We have considered the submissions made by counsel for the parties. As the applicant has not impleaded all the persons, who were included in the panel, he is not entitled for the first relief claimed against the result dated 26.2.97 (Annexure-10). The judgment of Hon'ble Supreme Court (Supra) is squarely applicab~~le~~<sup>le</sup> in the present case.


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6. However, in view of the fact that there is no specific denial by the respondents regarding the averment of the applicant that he was not relieved by the Assistant Engineer to appear in the examination, he is entitled for the relief to allow the applicant to appear in the examination of IOW Grade-I and if he comes out successful in the examination, he will be given seniority from the date his juniors were promoted.

7. For the reasons stated above, this O.A. is allowed in part.. Respondent No.2 is directed to allow applicant to appear in the next examination conducted for promotion to IOW Grade-I and if the applicant is successful in the said selection, he shall be granted promotion from the date his juniors were promoted as IOW, Grade-I. This order shall be implemented within six month from the date a copy of this order is filed.

No or-der as to costs.

  
A.M.

  
V.C.

Asthana/