

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH, ALLAHABAD

(31)

Original Application No. 108 of 1997.

this the day of 17th, May 2002.

HON'BLE MAJ. GEN. K.K. SRIVASTAVA, A.M.

HON'BLE MR. A.K. BHATNAGAR, J.M.

Narendra Kumar Srivastava,
aged about 40 years son of,
late Sri A.B. Lal , resident ,
of 117, Old Station , Near,
Cata Training School, Kanpur.

... Applicant.

By Advocate:- Sri Satya Vijai.

Versus.

Union of India, thorough General Manager,
Northern Railway, Borada House, New Delhi.

2. Divisional Railway Manager, Northern ,
Railway, Nawab Yusuf Road, Allahabad.

3. Senior Divisional Personnel Officer,
Northern Railway, Nawab Yusuf Road,
Allahabad.

4. Divisional Suprintendent Engineer,
(Co-ordination), Northern Railway,
Divisinal raileay Manager Officer,
Nawab Yusuf Road, Allahabad.

5. Divisi nal Engineer, Headquarters,
Norhtern Railway, Divisional Railway,
Manager Office, Allahabad.

... Respondents.

By Advocate:- Sri A. Tripathi.

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O R D E R (Oral)

(By Hon'ble Maj. Gen. K.K. Srivastava, Member- A.)

In this O.A filed under section 19 of the Administrative Tribunals Act, 1985, the applicant has prayed to quash the charge-sheet dated 22.03.1996. The applicant has further prayed that the respondents be directed to declare the result of the selection for the post of I.O.W Grade- I in which the applicant appeared in the year 1996 and on the basis of the same the applicant be recommended for promotion on the post of I.O.W Grade- I and to give him promotion w.e.f 03.05.1996 the date of declaration of the panel of I.O.W Grade- I through which six persons junior to the applicant have been given promotion. The applicant has claimed all the consequential benefits in regard to further promotion and seniority.

2. The facts, in short, giving rise to this O.A are that the selection proceedings for promotion to the post of I.O.W Gr.-I in scale of Rs. 2000-3200 were initiated by the respondents. The written examination was held on 24.02.1996. The result was declared on 05.03.1996 and the applicant's name appeared among the passed candidates and he was placed at Sl. No. 13. The viva voce was held on 11.04.1996. The applicant appeared. However, in the panel of I.O.W Grade- I declared on 03.05.1996 his name did not appear but the names of six juniors to the applicant appeared. Aggrieved by the same, the applicant has filed this O.A which has been contested by the respondents by filing CA and Suppl. CA.

3. Sri Satya Vijai, the learned counsel for the applicant submitted that ~~the~~ grave injustice has been done to the applicant. On the one hand his viva voce was held on 11.04.1996 and on the other he was issued S.F 5 without

any article of charges on 12.04.1996. Since the disciplinary proceedings were contemplated against the applicant sealed cover procedure should have been adopted by the respondents as per the law laid down by the Hon'ble Supreme Court in the case of Union of India Vs. K.V Jankiraman and others (1993) 23 ATC 322. The learned counsel for the applicant further submitted that the ^henclosures^h to SF-5 i.e articles of imputation of misconduct etc., were served upon the applicant after more than three years on 01.11.1999. Inquiry Officer has been appointed on 17.02.2000 and so far no action has been taken to decide the disciplinary proceedings. No inquiry has been held nor has the punishment order been passed. The learned counsel for the applicant also submitted that the applicant is working as I.O.W- Special since July, 1991. This post has been redesignated as I.O.W Line Management which is equivalent of I.O.W Grade- I but the respondents are denying the payment of appropriate scale and the applicant is being paid pay and allowances of I.O.W Grade-II only. All this demonstrates that the action of the respondents is not fair and the applicant is being subjected to avoidable harassment.

4. Sri A. Tripathi, the learned counsel for the respondents contesting the claim of the applicant submitted that the applicant's name did not figure in the panel declared on 03.05.1996 because he could not make a grade. He also submitted that there is no provision to inform the result to those candidates who are not selected to be put on the panel. The learned counsel for the respondents further submitted that the disciplinary proceedings initiated against the applicant have been finalised and punishment order has been passed on 27.03.2002 imposing the penalty of 'CENSURE'. The learned counsel also submitted that the applicant has already been given

promotion. The learned counsel for the respondents further submitted that in case the applicant is aggrieved with the punishment order dated 27.03.2002^{in the} has a right to appeal before the A.D.R.M within 45 days which is already provided for in the punishment order. Since the period of 45 days provided for preferring appeal is already over and the applicant alleges that the order dated 27.03.2002 has not been served upon him so far, we direct the respondents to serve the punishment order on the applicant without delay and we provide that the applicant shall have right to appeal against the punishment order within 45 days if the applicant so decides. The learned counsel finally submitted that disciplinary proceedings in the instant case have no connection in regard to the selection held during 1996.

5. We have heard learned counsel for the parties and perused the records. We have also perused the original file of selection and disciplinary proceedings pleaded before us by the learned counsel for the respondents.

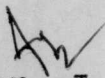
6. We have carefully considered the submissions of the counsel for the parties and have closely gone through the records and pleadings. After perusal of the original ~~file~~^{records} in respect of I.O.W Grade- I pertaining to year 1996, we find force in the submissions of the learned counsel for the respondents that the action of the respondents does not suffer from any error of law. The tabulated result sheet is available at Sl. No. 56 in the original file. The name of the applicant appears at Sl. No. 13. The applicant has secured only 55.12 marks and in the remark column he has been declared as unsuitable. The tabulated sheet in respect of the selection proceedings shows that 18 candidates have secured more than 60% marks maximum being 72.05%. Not only this against the candidates at Sl. No. 15 and 21 the remark of Vig./SF-5 has been given in red ink whereas no

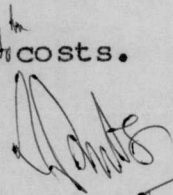
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such remark has been made against the name of the applicant. It is thus quite clear to us that the disciplinary proceedings initiated against the applicant have no connection in regard to his selection initiated during the year 1996. The applicant was found unsuitable and that is why his name does not figure in the panel dated 03.05.1996.

7. As regard the delay in the disciplinary proceedings the issue is not before us in this O.A for adjudication. It is a separate issue for which the applicant may seek remedy in accordance with law. On over all consideration we find that the O.A ^{lacks} ~~lacks~~ merit and is liable to be dismissed. The O.A is accordingly dismissed being devoid of merit.

8. There shall be no order as to costs.


Member- J.


Member- A.