

(Open Court)

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH, ALLAHABAD.

Original Application No. 654 of 1998.

Allahabad this the 05th day of March, 2002.

Q U O R U M :- Hon'ble Mr. C.S. Chadha, Member- A.  
Hon'ble Mr. A.K. Bhatnagar, Member- J.

Anil Kumar Garg S/o Sri  
Presently posted as Fitter Grade- II (Ticket No.1819),  
Carriage & Wagon, Eastern Railway, Mughalsarai.

.....Applicant

Counsel for the applicant :- Sri Sudhir Agarwal  
Sri S.K. Mishra

V E R S U S

1. Union of India through the Secretary,  
M/o Railways, New Delhi.
2. The Railway Board, Rail Bhawan, New Delhi,  
through its Chairman.
3. The General Manager, Eastern Railway,  
Fairly Place, Calcutta.
4. Chief Personnel Officer, Eastern Railway,  
Calcutta.
5. The Senior Divisional Personnel Officer,  
Eastern Railway, Mughalsarai.
6. The Divisional Railway Manager, Eastern Railway,  
Mughalsarai.

.....Respondents

Counsel for the respondents :- Sri K.P. Singh

O R D E R (Oral)

( By Hon'ble Mr. C.S. Chadha, Member- A.)

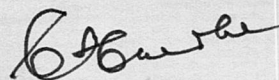
The case of the applicant is that he was selected

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for the post of Train Examiner and his name was placed in the panel declared by the department on 28.08.1996. Thereafter, the officers in the entire panel was sent for practical training but after the prectical training, the entire panel was quashed without giving any reason for the same. The quashing of the panel was challenged by the entire list of candidates, who were selected, by filing O.A No. 1149/1996 which was decided by this Tribunal on 16.09.1997, The Tribunal quashed the order of cancellation of the entire panel with the liberty to the respondents to suitably amend the panel with a view to delete the names of only those applicants in respect of whom irregularities had been found. In persuance of the order of the Tribunal, the respondents cancelled the candidature of the applicant vide impugned order dated 13.02.1998 which gives the final panel without the name of the applicant. The main argument of learned counsel for the applicant is that the Tribunal had struck down the original cancellation of the panel but left it to the respondents to pass a fresh order deleting the names of those in whose case the irregularities had been found. It does not mean that the name of the applicant could have been deleted without giving him an opportunity to be heard against the alleged irregularities found against him. It is the principle of natural justice that if the applicant is found guilty of any mal-practice, the same should be brought to his notice and he should be asked for his explanation. Without giving him an opportunity to be heard, any adverse order passed against the applicant is in violation of the principles of natural justice.


2. In reply to this charge, the respondents in their counter affidavit have merely averred that the applicant

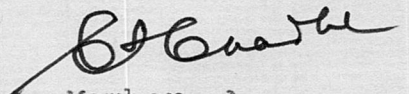




was given ample opportunity by this Tribunal in O.A No. 1149/1996 in which he was given an opportunity by the Tribunal to make averments regarding his candidature. We cannot agree with this argument because the Cancellation of the candidature was not made by the Tribunal but by the department and the department should have heard the applicant on the subject of irregularities allegedly committed by him. We are, therefore, of the opinion, that the principles of natural justice have been overlooked in the present case and, therefore, the order of removing the name of the applicant from the panel cannot be sustained and is, therefore, quashed. However, it would be in public interest to direct the respondents to give an opportunity to the applicant to be heard about the irregularities allegedly committed by him in the said examination. The OA is accordingly disposed of with the direction to the respondents to give an opportunity to the applicant to be heard regarding the alleged irregularities of the applicant and to pass a speaking reasoned order within a period of three months from the date of receipt of this order. In case, such irregularities do not <sup>stand</sup> proved <sup>le</sup> and the applicant is absolved of any guilt of alleged irregularities, his appointment should be made from the same date as the other candidates found fit in the panel.

3. There will be no order as to costs.

  
Member- J.

  
Member- A.

/Anand/