

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH  
ALLAHABAD

Dated: This the 04<sup>th</sup> day of OCTOBER 2005

Original Application No. 1213 of 1998.

Hon'ble Mr. K.B.S. Rajan, Member-J  
Hon'ble Mr. A.K. Singh, Member-A

Gulab Chandra, S/o late Sangam Lal  
R/o House No. 17, Nai Basti Kydganj,  
ALLAHABAD.

.....Applicant

By Adv: Sri S.I. Ali

V E R S U S

1. Union of India through the Secretary,  
Ministry of Railways, Baroda House,  
NEW DELHI.
2. The General Manager (Establishment),  
Northern Railway, Baroda House,  
NEW DELHI.
3. The Divisional Railway Manager,  
Northern Railway,  
ALLAHABAD.

.....Respondents

By Adv: Sri A.K. Gaur

O R D E R

By K.B.S. Rajan, JM

The applicant is aggrieved over the respondents' failure to provide him necessary appointment to the post of Porter Class IV even after his due selection. The applicant belongs to 'Bhotia' community which is one of the STs and the recruitment itself was against special drive for appointment STs.

2. The respondents seem to have had a genuine doubt as to whether the said community of UP did

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come under ST and clarification was sought from the Railway Board vide letter dated 2.12.1991. It appears that the Railway Board referring to OM No. 12025/9/91-SCD (R.P. cell) dated 8.4.1991 of the Ministry of Welfare confirmed that Bhotia is one of the communities specified as ST in the state of UP. Further correspondence as annexed by the respondents relate to the latter period of 1996 to 1998. As the respondents did not act on the confirmation received from the Railway Board on time, the life of the panel expired and the authorities at the Zonal Railway level were incapacitated from extending the life of the select panel as the same was beyond their powers and as such at the Zonal level the claim of the applicant for appointment as Porter Class IV was rejected .

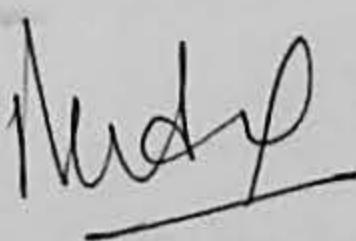
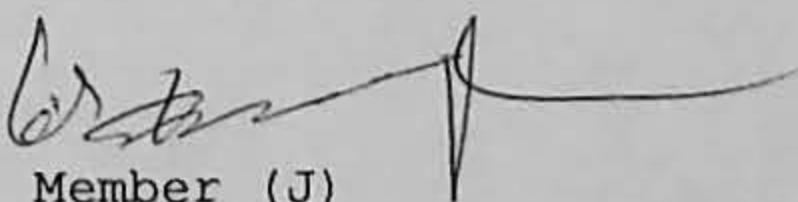
3. The matter has been considered. The omission on the part of the respondents in not acting immediately on receipt of confirmation issued by the Railway Board on the strength of OM dated 8.4.1991 is apparent, patent and obvious. The lapse attributable in its entirety to the respondents has resulted in the non-employment of the applicant for the past several years.

4. The applicant having been already selected and his non appointment being only on account to a minor doubt relating to the community being enlisted as a ST, and the said doubt having been already cleared

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there should be no hindrance for the respondents to consider the case of the applicant for his appointment as Porter Class IV, along with his batch from 1987. It is therefore directed that the respondents shall treat the applicant as deemed to have been appointed from 1987 and his pay shall be fixed notionally from the said year, the date of appointment being the same as of his immediate junior. The pay shall be fixed notional from 1987 and actual only from the day the applicant assumes duty i.e. shall be from date of his joining the duty. Needless to mention that if the post carries increment the same shall also be made available to him right from 1987. The period of service from 1987 shall count for pension purposes. In case any of his juniors have been promoted the applicant shall also be considered accordingly. It is however made clear that the applicant shall not be entitled to any back wages. The respondents shall pass suitable order in this regard.

5. The above direction shall be carried out within a period of 6 months from the date of receipt of a copy of this order. The OA is accordingly disposed of. No costs.

  
Member (A)  
Member (J)

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