

Open Court

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH  
ALLAHABAD

Original Application No. 1244 of 1998

Dated: This the 27th day of August, 2004

HON'BLE MRS MEERA CHHIBBER, MEMBER-J  
HON'BLE MR S C CHAUBE, MEMBER-A

Phailu Singh Yadav,  
Son of Sri Baij Nath Yadav,  
Resident of Village Chitauna,  
Post office Mustafabad, Varanasi  
posted as Coach Attendant (C.A.),  
North Eastern Railway, Varanasi Station,  
Varanasi.

....Applicant.

By Advocate: Shri V K Srivastava

Versus

1. Union of India, through its General Manager,  
North Eastern Railway, Varanasi.
2. Divisional Rail Manager, North Eastern  
Railway, Varanasi.
3. Sri Sridhar Dubey, Assistant Personnel  
Officer (A.P.O.) North Eastern Railway,  
Varanasi.
4. Divisional Operating Manager, North  
Eastern Railway, Varanasi.
5. Senior Divisional Personal Officer,  
North Eastern Railway, Varanasi.

....Respondents.

By Advocate: Shri D.C. Saxena

O R D E R

By Hon'ble Mrs Meera Chhibber, JM

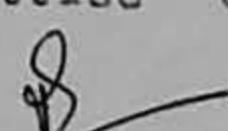
By this C.A. applicant has sought quashing  
of the panel dated 6-10-98 (page 18) whereby as many  
as 13 persons were declared to have been found qualified  
for the Class III post. They have sought a direction to  
prepare a panel after considering the correct allocation  
of marks of seniority, service record and professional  
ability in accordance with provisions of Railway Establish-  
ment Manual and to give promotion to the applicant and

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to make the payment of salary to him.

2. Respondents have opposed this O.A. on the ground that petitioner could not succeed in the selection test for Class III from Class IV cadre, accordingly he was declared failed in the result published on 16.9.1998. The selection was finalised as per Railway Rules, they have further submitted that the applicant has made ~~wild~~ <sup>wild &</sup> allegation of malafides against Shri Sridhar Dubey, even though ~~there is~~ <sup>there is</sup> no basis. Moreover, he was not the only member of selection committee. The selection committee consisted of three members wherein Shri Sridhar Dubey was the junior most member in the <sup>Moreover</sup> said committee. Even though Shri Dubey has filed a separate Counter Affidavit denying the allegation made against him. They have submitted that since applicant failed to secure the requisite marks and he was not selected, therefore, his grievance that juniors have been selected is wholly unfounded and the O.A. needs to be dismissed.

3. Applicant has not filed any Rejoinder Affidavit in this case to rebut the statement made by the respondents, therefore, in law he is deemed to have ~~been~~ admitted the averments made by the respondents. A person only has right of consideration and he has already been considered by respondents, if he failed to qualify in the selection whereas his juniors qualified in the selection, naturally they will be given promotion and applicant cannot have any grievance in such circumstances. In any case the panel was declared whereby 13 persons have been declared to have qualified for promotion on Class III posts, but none of those persons have been impleaded by name as respondents in the present O.A.. If applicant was challenging the panel, it was incumbent in his part to have been impleaded those persons as respondents because the law is well settled that no order can be passed



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against any person at his back, therefore, to that extent this O.A. is bad for non-joinder of necessary parties as well.

Since applicant has sought the quashing of the panel itself ~~now~~ <sup>without B</sup> impleading those persons, the relief as prayed by him in Clause(a) cannot be granted to him. He has further stated that 14 vacancies were advertised but since he did not qualify in the selection, he cannot claim promotion as a matter of right against the said post.

4. In view of the above discussion the O.A. is devoid of merit. The same is accordingly dismissed with no order as to costs.



Member-A



Member-B

Brijesh/-