

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH : ALLAHABAD

ORIGINAL APPLICATION NO.1165 OF 2001
ALLAHABAD THIS THE 16TH DAY OF SEPTEMBER, 2004

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

Sudhir Kumar Rai,
S/i Shri Ram Niwas Rai,
Section Engineer/P. Way/T.M.S.,
works under DEN/Line/Kanpur/N.Rly/Kanpur.
R/o 117, Purana Railway Station, G.T. Road,
Kanpur.

. Applicant

(By Advocate Shri R.K. Rai)

Versus

1. Union of India,
through General Manager (P) Northern Railway,
Baroda House, New Delhi.
2. Divisional Railway Manager(Range),
Northern Railway D.R.M. Office,
Allahabad.

. Respondents

(By Advocate Shri P. Mathur)

O R D E R

HON'BLE MRS. MEERA CHHIBBER, MEMBER-J

By this O.A. applicant has sought the following
reliefs:-

"I) To set aside the order dated 24.8.2001 passed
by respondent which permitted the junior person
to applicant to appear in the Group 'B' selection



examination while applicant's application has not been considered.

ii) To set aside the order dated 5-7/10/1999 issued by respondent no.1 so far as it relates to cut off dated i.e. the eligibility to appear in the selection from group 'C' posts to group 'B' post and the but of date struck down.

iii) To pass an order or direction commanding the respondents to permit the application and applicant to appear in the selection for promotion from group 'C' post to group 'B' post against 30% vacancies in Civil Engg. Department in view of the notification dated 5-7/10/1999.

iv) To pass an order or direction give the seniority to applicant for the year 1991-92, against which applicant was recruited by Railway Recruitment Board.

v) Cost of this application to be awarded in favour of applicant.

vi) Any other and further relief as the ~~Ma~~ Tribunal may deem fit and proper by awarded in favour of applicant as against the respondents."

2. The grievance of the applicant in this case was that he was not being allowed to appear in the selection from Group 'C' post to Group 'B' post against 30% vacancies in Civil Engineering Department in view of the notification dated 5-7/10/1999. It is seen that by order dated 17.10.2001 this Tribunal had directed the respondents to allow the applicant provisionally to appear in the examination scheduled to be held on 04.11.2001 for selection for the post of Group 'B' Engineering Service. Similar petitions were filed by some other persons also.


3. Respondents have filed their Supplementary counter Affidavit wherein they have stated that in one of the identical cases, this Tribunal had passed


B

an order dated 22.01.2002 directing the respondents to declare the results of the applicants immediately and in case they are declared successful, they may be permitted to appear in Viva-voce. It was however, clarified that the results will be subject to the final decision of the O.A. A copy of order dated 22.01.2002 is annexed as Annexure SCA-1. As a result of the order passed by this Tribunal on 22.01.2002 respondents declared the result on 10.01.2002 wherein applicants were not declared as passed (SCA-II). Respondents, therefore, have submitted that since **in the examination** applicant was allowed to appear by the court and he has already failed in the written examination, the O.A. does not survive any longer as it has become infructuous, therefore, the same may be dismissed.

4. Counsel for the applicant at this stage states that he may be allowed to withdraw this petition with liberty to challenge the results declared by the respondents on various grounds which are available to him in law.

5. In view of the statement made by the applicant's counsel and the averments made by the respondents' counsel, this O.A. is dismissed as not pressed, **with liberty to applicant to challenge the result in accordance with law and if there are any valid grounds for challenging the same. No costs.**


Member-A


Member-J