

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH  
ALLAHABAD.

ORIGINAL APPLICATION NO. 153 OF 2005.

WITH

ORIGINAL APPLICATION NO. 87 OF 2005.

ALLAHABAD THIS THE 20<sup>TH</sup> DAY OF DECEMBER 2006.

HON'BLE MR. JUSTICE KHEM KARAN, V.C.  
HON'BLE MR. P.K. CHATTERJI, A.M

- 1. Mohd. Ikram Khan s/o Mohd. Islam Khan, aged about 52 years, working as TTE/BANDA, NCR.
- 2. Suresh Singh Mahorey S/o Mangal Singh aged about 44 years, working as TTE/ Jhansi, NCR.

.....Applicants in O.A. No.153/05

(By Advocate: Sri S.N. Khare)

VERSUS

- 1. Union of India through the General Manager, N.C.R. Allahabad.
- 2. Divl. Rly. Manager (Personnel) N.C.R. Jhansi.

.....Respondents in O.A. No.153/05

(By Advocate: Sri K.S. Saxena)

ALONGWITH

ORIGINAL APPLICATION NO. 87 OF 2005.

1. Mohd. Ikram Khan s/o Mohd. Islam Khan, aged about 52 years, working as TTE/BANDA, NCR.
2. Suresh Singh Mahorey S/o Mangal Singh aged about 44 years, working as TTE/ Jhansi, NCR.

.....Applicants in O.A. No.87/05

(By Advocate: Sri S.N. Khare)

VERSUS

1. Union of India through the General Manager, N.C.R. Allahabad.
2. Divl. Rly. Manager (Personnel) N.C.R. Jhansi.

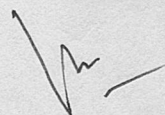
.....Respondents in O.A. No.87/05

(By Advocate: Sri Munna Pandey)

O R D E R

BY MR. JUSTICE KHEM KARAN, V.C.

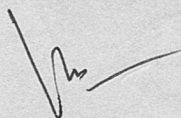
In O.A. NO.87/05, the applicants have prayed for directing the respondent NO.2, to include their names in the provisional panel of Head T.T.E. grade of Rs.5000-8000 (RSRP) dated 30.11.2004 (A-1) and also in promotional list of Head T.T.E as circulated vide letter dated 17.12.2004 (A-2). They say that while preparing provisional panel dated 30.11.2004 as a result of modified selection under restructuring, in terms of Railway Board's letter dated 9.10.03 and 1.10.2004, for the post of Head T.T.E, their cases were wrongly ignored and many juniors to



them were included. They say their service records were upto mark, and there were no reasons to ignore their candidature, for the purpose of putting their names in the provisional panel, dated 30.1.2004, for Head T.T.E.

2. In reply, the respondents have come with a case that according <sup>to</sup> <sup>the</sup> modified selection, adopted for preparation of provisional panel, under restructuring, not only the seniority alone, but the entire service record, and three years confidential reports are considered by the Committee, so as to select suitable candidates for being put in the provisional panel and on assessment made by the Committee, these two applicants were not found fit, for being put in the provisional list dated 30.11.2004.

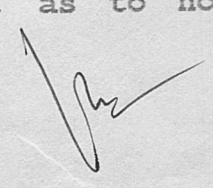
3. The second O.A. No.153/05 was filed by the same applicants with a prayer that respondent No.2 be directed to exempt them from appearing in written test for promotion to the post of Head T.T.E. The main contention of the applicants was that since they had been wrongly excluded from the provisional list prepared for promotion to the post of Head T.T.E., as a result of restructuring, so they could not be



asked to appear in the written test etc. for selection to the post of Head T.T.E. proposed to be held in February, 2005.

4. In reply, the respondents have tried to say that in so far as, the regular selection for promotion to the post of Head T.T.E. was concerned, the eligible candidate falling within the zone of consideration, were to appear in the written as well as viva-voce. According to them, it was not a matter relating to upgradation, as a result of restructuring, but was the regular promotion, so the case of the applicants, that they cannot be subjected to written test or viva-voce was not well-founded.

5. Sri S.N. Khare, learned counsel for the applicant has submitted that O.A. No.153/05 has virtually become infructuous and that need not be decided on merits. Even on merits, there appears no substance in this O.A. In a regular promotion to the post of Head T.T.E., a suitability test is prescribed and unless one, passes that test, how could he be promoted. All the candidates coming in the eligibility criteria, had to appear in the test, if they wanted their promotion. Sri S.N Khare was not in a position to satisfy us, as to how the two



applicants could claim exemption from the written or viva-voce test, to be held for the purposes of regular promotion to the post of Head T.T.E. So, from this angle as well, the O.A. No.153/05 deserves to be dismissed

6. In so far as earlier O.A. No.87/05 is concerned, the main contention of the Sri S.N Khare is that according to the modified selection, adopted under restructuring, for upgrading to the post of Head T.T.E, only seniority and service record were to be seen and since the applicants were senior and to their knowledge, their service record was satisfactory, so there was no apparent reason not to include their names in the panel dated 30.11.2004 (A-1)

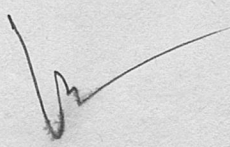
7. Sri K.S. Saxena has submitted that as per the instruction on the subject, not only the seniority, service record but three years confidential reports were to be seen and on assessment of all this, the two applicants were not found fit for the purpose.

8. We do not find anything in the O.A. where it has been specifically averred that anything adverse was not communicated to the



applicant. The assessment made by the Committee, in terms of the procedure of modified selection, cannot be interfered with by this Tribunal, unless any apparent infirmity is pointed out or unless violation of any specific Rule or Regulation is pointed out or any malafide is alleged and proved. The Tribunal will not be sitting in appeal over the assessment made by the Committee.

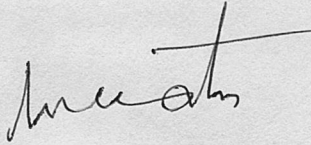
9. Shri Khare has commented that if persons under punishment (see A-2) could be found fit, where is the logic, not to find these two applicants fit, even if they had less satisfactory service record. In fact letter dated 17.12.2004 (A-2) is in two part. The first part, relating to persons under punishment, does not appear to be in the context of provisional panel dated 30.11.2004, prepared after adopting modified selection. The ~~second~~<sup>second</sup> part of this letter is in the context of list dated 30.11.2004 (A-1), prepared after adopting modified selection. So, we are of the view that there is no good basis for the argument that persons under punishment, were ~~included~~<sup>included</sup> by the Committee for being put in the provisional panel of 30.11.2004. Those four persons as mentioned in first part of letter dated 17.12.2004 (A-2)



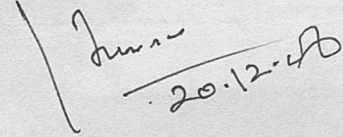
were selected on 23.11.2001 and 7.7.2003.

Moreover, the grievance that some persons having tainted record, have been included in the panel, <sup>were</sup> ~~were~~ not advance the case of applicant.

10. So for the reasons mentioned above, Both the O.As. NO.87/05 and 153/05 <sup>are</sup> dismissed but with no order as to costs.



Member-A



20.12.08

Vice-Chairman

Manish/-