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RESERVED

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Original Application No.828 of 2005

Allahabad, this the 22nd day of February, 2006.

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

1. Ambika Singh Yadav, S/o late Mahadeo Singh Yadav.
2. Asutosh Kumar Jha, S/o Sri N.K. Jha.
3. Sanjay Kumar Agarwal, S/o Sri S.S. Agrawal.
4. Rajendra Prasad, S/o late Kalika Prasad.
5. Mahindra Deo Ram, S/o late R.K. Ram.
6. Dhirendra Deo Ram, S/o R.K. Ram.
7. Dina Nath Pandey, S/o Sri R.C. Pandey.
8. Ram Sunder, S/o late Bhagwati.
9. Vinod Kumar, S/o Sri M.L. Chaudhari.
10. Prabha Shanker Upadhyaya, S/o Sri B.N. Upadhyayay.
11. Ram Sakal Prasad, S/o late Sri Deo Nath.
12. Dinesh Kumar Dhusia, S/o Sri Ram Preet Ram.
13. Ashok Kumar, S/o Sri Awadh.
14. Daya Shanker, S/o Sri R.D. Paswan.

All applicants are posted under the control of Chief Crew Controller, Platform no.2, East Central Railway, Mugalsarai Chandauli.

.....Applicants.

(By Advocate : Shri K.K. Misra)

Versus

1. The Union of India,
Through General Manager,
East Central Railway,
Hazipur (Bihar).
2. The Divisional Railway Manager,
East Central Railway,
Mugalsarai,
Chandauli.
3. Senior Divisional/Divisional Personnel Officer, East Central Railway, Mugalsarai, Chandauli.
4. Senior Divisional Electrical Engineer (TRS/OPTC), East Central Railway, Mugalsarai, Chandauli.

.....Respondents.

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By Advocate Sri A.K. Gaur.

- 5. Sri Shailendra Kumar Singh.
- 6. Sri H.C. Oraon.
- 7. Sri Naresh Kumar Marandi.
- 8. Sri B.K. Sinha

.....Intervenors

(By Advocate : Shri R. Verma)

O R D E R

By Hon'ble Mr. K.B.S. Rajan, J.M.

Cancellation of the written examination for the post of Loco Pilot Goods in the scale of Rs. 5000-8000/- in which the applicant became victories is the challenging in this case. According to the applicant, the cancellation is illegal being accentuated by pressure of the Union, no solid and good ground for such cancellation has been given by the respondents.

2. Certain individuals according to whom the cancellation was legal, moved application for impleadment, but since such application was preferred at a very late stage, they were permitted to be intervenors and permission granted to file Written Submissions.

3. The respondents have stated that the precise reason for cancellation of the test is that working report for the year 2002-2003, 2003-04 and 2004-05 were prepared by a Supervisor who was not authorized to do so as the staff was not working with him. Since marks are allotted to the report, the



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irregularity in writing the working report would tangentially affect the final result of the test.

4. The counsel for the applicant has relied upon the following judgments in which such cancellation without justifiable reasons was held to be illegal;

(a) **Ratan Kumar Lal & Ors. Vs. U.O.I. & Ors (order dated 7.10.2003 in O.A. no. 378 of 2003).** The decision of the Cat in this case has been upheld by the Hon'ble High Court vide order dated 7.12.2004 in W.P. No. 53456 of 2003.

(b) **Lallan Trivedi & Ors. Vs. U.O.I & Ors. (order dated Nil February, 1995 in O.A. no. 110 of 1993 (Lucknow Bench).**

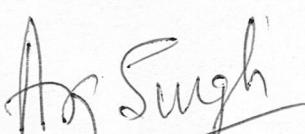
5. The question for consideration is whether there are justifiable reasons for cancellation of the testing which the applicant was declared successful. The reason given was that incompetent authority has recorded working report for 3 years from 2002-03 and the same has telescopic effect upon the final result of the test. The question is whether this irregularity could not be rectified. The officer(s) who would have been the right authority to write the working report for previous years dating back to 2002-03 may or may not be working in the same unit. Even if they were working in the same unit, if a fresh working report is called for from him/them it is highly doubtful whether the same would be voicing the accurate report. For, it will be too difficult to remember the performance of various employees from the year 2002-03, as human memory is ephemeral.

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Hence, even if the original working report was by a Supervisor, today there is no remedy to right the wrong. Hence, it would be only appropriate that the working report furnished by the Supervisor be allowed to continue and accordingly the selection made should not be cancelled. It is a matter of record that there has been no malafide alleged against the Supervisor who had rendered the working report. The clock cannot be put back because of the reasons stated above.

6. The O.A. is, therefore, allowed. The impugned order of cancellation dated 4.7.2005 is hereby quashed and set-aside and the respondents are directed to give effect to the panel already prepared on the basis of written test etc. Cost easy.



MEMBER-A



MEMBER-J

GIRISH/-