

(2)

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Dated: This the 24th day of **NOVEMBER** 2008.

Original Application No. 990 of 2005.

Hon'ble Mr. Justice A.K. Yog, Member J
Hon'ble Mr. Shailendra Pandey, Member A

H.N. Singh, S/o S. Singh, R/o Manas Colony, Mughalsarai,
District Chandauli.

.... Applicant

By Adv: Sri S.K. Dey and Sri S.K. Mishra

V E R S U S

1. Union of India through the General Manager, E.C. Rly. Hajipur, Bihar.
2. Chief Personnel Officer, E.C. Rly., Hajipur, Bihar.

.... Respondents

By Adv: Sri Anil Kumar

O R D E R

By Hon'ble Mr. Justice A.K. Yog, Member J

Heard Sri S.K. Dey and Sri S.K. Mishra learned counsel for the applicant and Sri Anil Kumar learned counsel for the respondents.

2. According to the applicant he was selected and required to undergo ~~for~~ training in Diesel Shed Eastern Railway, as a Trainee Apprentice Mechanic/Electrical for a period of two years. On completion of said training he was allowed to work against ~~working~~ post of Chargeman Grade 'B' in Diesel Shed Mughalsarai. The provisional Seniority list of Chargeman was also prepared and published on 30.06.1085 and the name of the applicant finds place

(Signature) *(Signature)*

(13)

at Sl. No. 23A (Annexure A2 with compilation No. 2 of the OA).

According to the applicant he was entitled for promotion,

3. On behalf of the respondents counter reply has been filed and the claim of the applicant has been controverted. Paragraph No. 4.6 of the OA reads as under: -

"4.6 That during this period all Apprentice Mechanics of 82/83 batch were promoted and upgraded as charge Man Gr. A and now they were promoted as senior Section Engineer in scale of pay Rs. 7450-11500/-."

4. The aforesaid contention of the applicant has been replied vide paragraph No. 12 of the counter reply which also reads as under: -

"12. That with regard to contents of paragraph no. 4.6 of the O.A. it is submitted that the applicant was not found suitable in the test held on 04-11-1984. The result of which published vide office order dated 02-1-1985. The applicant posting as Chargeman Grade 'B' in scale of Rs. 425-700 (RP) was subject to his passing the examination after training which he did not qualify. The applicant is regularly being advised to appear in the examination but he is adamant not to do so and hence the applicant is not entitled for consequential benefits."

5. The applicant has also filed Rejoinder Affidavit. However *from a* perusal of the main pleadings contained in the OA and CA (as aforesaid paragraph) it is clear that neither the applicant nor the respondents have given full details. The respondents have failed to disclose rules and further the documents in support of the allegation made in paragraph No. 12 *has* not been annexed for perusal of the Tribunal. On the other hand according to *the/he* applicant has filed representation dated 31.08.2004 which is pending and has not been decided. Since the claim of the applicant requires adjudication of facts and certain vital facts which can be ascertained by the department from original records *are* in possession of the department, *We* are of the opinion that the applicant may

Yours

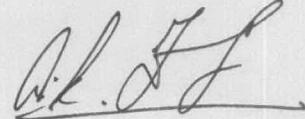
approach the department by filing certified copy of this order and the respondents department be directed to decide the grievance of the applicant by passing a reasoned order on the basis of record.

6. In view of the above we direct the applicant to file ^a certified copy of this order alongwith OA (with all annexures) and additional representation (if so advised) before respondent No. 2/Chief Personnel Officer, E.C. Rly., Hajipur, Bihar (including additional representation, if any) within a period of two months on receipt of certified copy of this order (as indicated above), exercising unfettered discretion since we have not entered into the merit of this case at this stage. It is made clear that in case the applicant submits an application requesting for supply of documents referred in the counter affidavit, the same shall be supplied within a period of two weeks (of receipt of request in writing) to enable the applicant to file additional representation. Decision taken on the representation of the applicant in pursuance of the above order shall be communicated to the applicant forthwith.

7. Subject to above direction OA is disposed of.

8. There shall be no order as to costs.

(Shailendra Pandey)
Member (A)


(Justice A.K. Yog)
Member (J)

/pc/