

(Court No.1)

CENTRAL ADMINISTRATIVE TRIBUNAL,
ALLAHABAD.

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Registration No. 262 of 1986

V.S.Rathor and others . . . vs. . . . Union of India and others.

Hon'ble S.Zaheer Hasan, Vice Chairman,

Hon'ble Ajay Johri, Member (A).

(Delivered by Hon. S.Zaheer Hasan, V.C.)

This is an application under Section 19 of the Administrative Tribunals Act (No. 13 of 1985) with a prayer to set ~~xx~~ aside the order dated 24.3.1986 (Annexure-5'A' to the application), and to issue a direction to the respondents to place the applicants' names in the seniority list immediately after 1977-78 panel declared in 1980, and to issue a direction to the respondents not to give effect or credit to the old candidates who had appeared in 1973 examination.

According to applicants' learned counsel, brief facts of the case are as given below:-

Some test was held in the year 1973. In 1977 that examination was cancelled. Then again some examination took place in 1977-78 and 8 persons were declared successful. There was some litigation in this case and ultimately in 1980 a panel of these 8 persons was formed. The applicants and some others are direct recruits of the year 1980 and onward. They were put below the aforesaid

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8 persons. On 31.5.1982 Divisional Railway Manager passed an order that those who appeared in 1973 examination should be placed above (senior to) 1977-78 candidates. The applicants and some others belonging to 1977 batch filed a writ petition which was dismissed on technical grounds. They again filed another writ petition after moving the representation to the department concerned. By the order dated 15.3.1985 the order of cancellation dated 21.5.1982 was withdrawn. A writ was filed against that order and an ex parte injunction was issued which was ultimately vacated on 18.10.1985. That writ petition is still pending before the Hon'ble High Court. On 4.12.1985 the candidates of 1973 examination were reverted and they approached the authority concerned. The impugned order (Annexure-5'A') was passed on 24.3.1986. Against this order a representation was made by the applicants on 25.5.1986. That representation is still pending and the present application under Sec. 19 of Act 13 of 1985 was moved on 27.6.1986.

It was contended that departmental remedy was available under clauses (4) (a) and 4(b) of Rule 18 of the Railway Service (Discipline and Appeal) Rules, and since applicants' representation was pending, this application should not be admitted. Section 20 of Act 13 of 1985 lays down that a Tribunal shall not ordinarily admit an application unless it is satisfied that the applicant had availed of all the remedies available to him under the relevant service rules as to redressal of grievances. In

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clause (2)(b) of this Section it has been laid down that where no final order has been made by the Government or other authority or officer concerned with regard to the appeal, representation etc., the applicant should be deemed to have availed the remedies, if a period of six months from the date on which such appeal, representation etc. was preferred, has expired. So, the effective remedy was available. The representation of the applicants is still pending before the competent authority. To our mind the applicants have unnecessarily rushed to this Tribunal. The application cannot be admitted in view of the provisions of Section 20 of the Act.

This application is accordingly rejected at admission stage.

August 28, 1986.

[Signature]
Vice Chairman (T)

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Member (A).