

Open Court

CENTRAL ADMINISTRATIVE TRIBUNAL ALIAHABAD BENCH

ALLAHABAD.

Allahabad this the 14th day of February 2000.

Original Application no. 359 of 1992.

Hon'ble Mr. Rafiq Uddin, Judicial Member

Hon'ble Mr. S. Biswas, Administrative Member

1. Prem Chandra Singh,  
S/o Late Vikarma Singh,  
Posted as Skilled Machinist, Shop Superintendent,  
Heavy Machine Shop, Diesel Locomotive,  
Workshop (D.L.W.)  
Varanasi.
2. Devendra Prasad Sharma, S/o Late B.P. Sharma,  
Skilled Machinist, Shop Superintendent,  
Loco Frame Shop, D.L.W.,  
Varanasi.
3. Barmeshwar Singh, S/o Sri Bas Dev Singh,  
Posted as High Skilled Machinist, Grade II,  
Shop Superintendent, Pipe Shop,  
D.L.W. Varanasi.
4. Gulab Mall, S/o Late Sardar Mall,  
Posted as High Skilled Fitter Grade II,  
Shop Superintendent, Loco Assembly Shop,  
D.L.W. Varanasi.
5. Surendra Nath Pandey, S/o Sankata Pandey,  
Electrician Grade II, Shop Superintendent,  
Loco Test Shop, D.L.W.,  
Varanasi.

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6. Raj Kishore Singh, S/o K. Singh,  
posted as Machinist Skilled, Shop Superintendent,  
Truck Machine Shop, D.L.W.,  
Varanasi.
7. Bimal Kumar Chandra,  
Machinist Grade-II,  
Staff No. 09/6074, Shop Superintendent,  
Rotor Shop, D.L.W. Varanasi.

... Applicant.

C/R Sri A.C. Tripathi

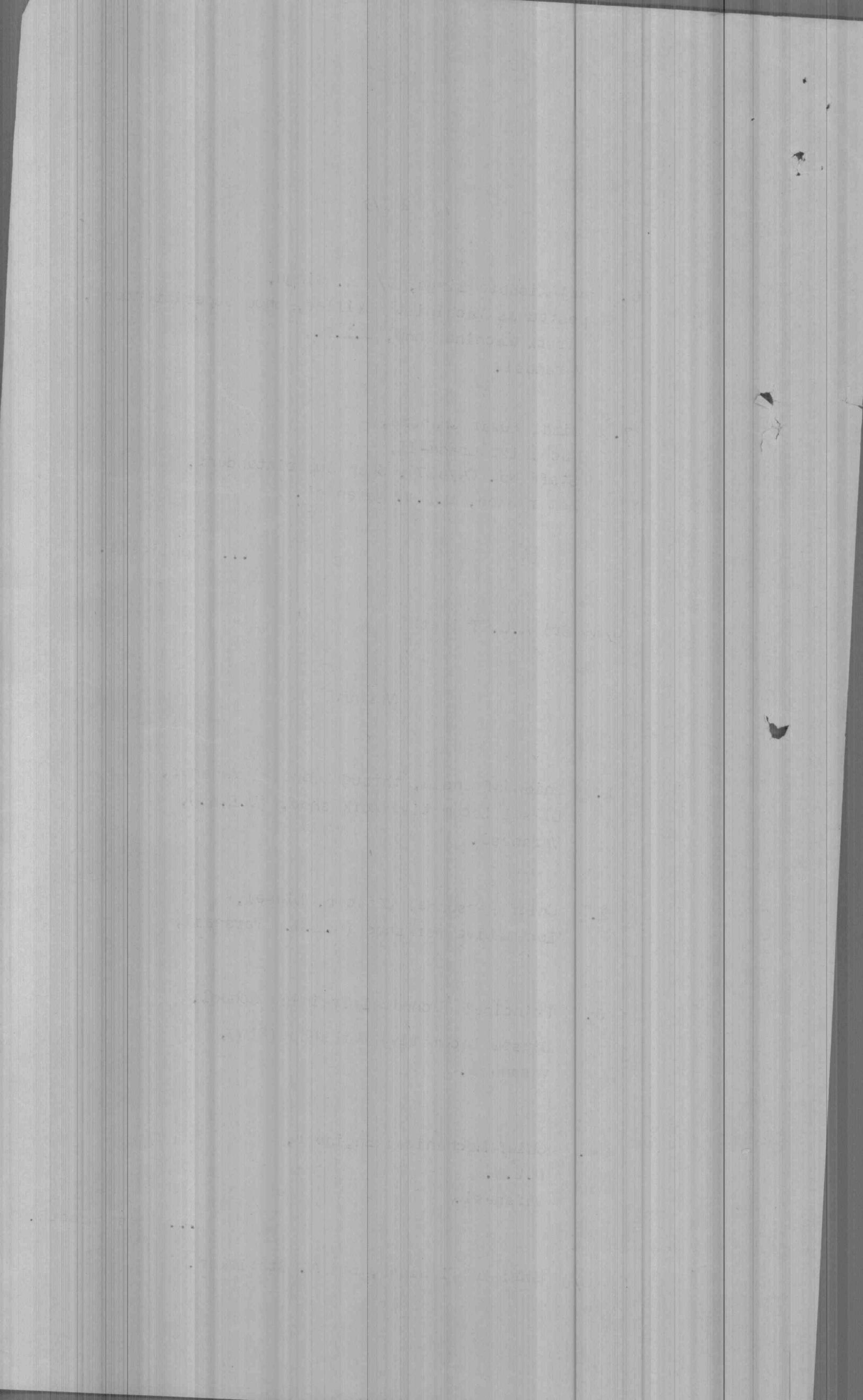
Versus

1. Union of India, through General Manager,  
Diesel Locomotive Work shop, (D.L.W.),  
Varanasi.
2. Chief Personnel Officer, Diesel,  
Locomotive Workshop (D.L.W.) Varanasi,
3. Principal Technical Training School,  
Diesel Locomotive Workshop (DLW),  
Varanasi.
4. Chief Mechanical Engineer,  
D.L.W.  
Varanasi.

... Respondents.

C/R Shri Lalji Sinha, Sri A. Sthekar.

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O R D E R

Hon'ble Mr. Rafiq Uddin, Member-J.

The applicant(s) have joined this OA to challenge the written examination conducted by the respondents on 15.12.1991 and also the results of interview conducted on 12th and 13th of March 1992 for selection of Intermediate Apprentice Mechanic(s).

2. The case of the applicants is that the applicants are working as Skilled/Highly Skilled Artisans, Grade I and II in D.L.W. Work Shop, Varanasi, on the posts of Electricians, Fitters, Welder, Machinist etc. The General Manager D.L.W. invited applications for 31 posts of Intermediate Apprentice Mechanics in the Grade of Rs. 1400 - 2300. The applicants were also eligible to appear in the said examination and accordingly they appeared alongwith 212 other candidates. It is alleged that the written examination was post-poned from time to time on various dates, but ultimately it was held on 15.12.1991 and the result thereof declared on 21.12.1991. It appears that the applicants did not qualify for interview in the aforesaid examination and consequently filed present O.A.

3. The main grounds for challenging the written examination are that the question papers of the examination were leaked before the examination and photocopies thereof were given to few candidates, outside the examination hall. The paper was not as per syllabus prescribed and no option was given to

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persons or candidates appearing in special trades regarding their specialised field i.e. Mechanical or Electrical and as a result the candidates of the particular skill were put in a disadvantage position vis-a-vis other candidates. It is also alleged that the examination paper was not set by the committee of persons having the expertise in each field. The applicants have also stated that there was bungling in the examination and mass copying were done and candidates from room nos 3, 5 and 10 were declared successful.

4. The applicants, therefore, made representation against the irregularities in the written examination to the authorities concerned on 27.12.1991 for cancellation of written examination and to hold fresh examination. A similar representation was made by candidates belonging to electrical side to the respondents on 01.01.1992. Since no action has been taken by the authority concerned they have filed present OA.

5. The respondents in their CA have denied allegations made by the applicant. It has been stated on behalf of the applicant that the applicants did not secure minimum qualifying marks in their written examination. Hence, their names could not find place in the list of successful candidates and, therefore, they were not called for viva-voce test. The points raised by the applicants in their representation, were considered and examined by the competent authority and it was found that there were no leakage of the <sup>as alleged</sup> question paper and the ~~examination~~ made by the applicants

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It is also stated that the common syllabus were notified to all the candidates who had to appear in the written examination, including the candidates for Mechanic & Electrical Department. <sup>R. R. G.</sup> ~~He has~~ also claimed that sufficient choices were given in the question paper in respect of question for Mechanical and Electrical trades. None of the candidates from Mechanical or Electrical Department raised any objection about the ~~syllabus~~ syllabus which was notified earlier. The objection on the syllabus has been first raised by the applicant who failed in the examination. It has also been disclosed by the respondents that the selection board was constituted consisting of Principal, Technical Training School, Dy Chief Mechanical Engineer, Loco, Dy. Chief Personnel Officer and Dy. Chief Electrical Engineer (M) and the question paper was set up by the member of the selection board. It is denied that the question paper was not set by ~~the~~ the person belonging to Personnel Department.

6. It is also pertinent to mention that the Viva-voce test of the candidates who qualified in the written examination has already taken up on 12.02.1992 and 12.03.1992 and panel of selected candidates has already been declared on 14.05.1992 and as such process of selection is complete.

7. It is evident from the allegations made by the applicant that they have pointed out certain irregularities namely leakage of question paper, paper having not been set by any expert person and the question paper having been set on common syllabus

which was disadvantage to the candidates from Electrical & Mechanical side. These allegations have been specifically denied by the respondents in their C.A.. Even it is stated that on the basis of representation made by the applicants, matter was examined by the competent authority and the selections were not found correct. There is no RA filed by the applicants against the CA. In the absence of any evidence to prove such allegations, we do not find any reason to disbelieve the respondents ~~to show~~ that <sup>R</sup> no irregularities were committed in conducting examination in question. It is possible to draw any adverse inference in conducting the examination in question. More over since the selection process has already <sup>not</sup> over and the applicants having participated ~~in~~ <sup>ed</sup> in the same, this Tribunal can not interfere in the selection process. On this point the Apex Court in Om Prakash Vs. Akhilesh Kumar, AIR 1986 SC 1043, held that, when the candidates appeared in the examination without protest it does not deserve any relief. Similarly in Sardara Singh Vs. State of Punjab, AIR 1991 SC 2248, the Apex Court has held that the applicant had taken the chance for selection and were not selected on the basis of comparative merits, there were no justification to issue directions to the Govt. for giving any relaxation in respect of some eligibility criteria. In Madan Lal Vs. State of Jammu, AIR 1995 SC 1088, it was observed by the Apex Court that the result of interview ~~test~~ on merit can not be successfully challenged by the candidates who taken chance to get

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selected at the said interview and ultimately found himself as unsuccessful.

8. In view of the above factual & legal position, we do not find any merit in the O.A. and the same is dismissed. No order as to costs.

S. Arivu  
Member-A

D. Rajendran  
Member-J

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