

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH, ALLAHABAD

O.A. No.
T.A. No.

363/92

DATE OF DECISION

13/12/94

Bhagwan Muni Tewari

PETITIONER

Shri D.P. Singh

ADVOCATE FOR THE
PETITIONER

V E R S U S

N. V. I. & others

RESPONDENTS

Shri G.P. Agarwal

ADVOCATE FOR THE
RESPONDENTS

P R O C E E D I N G S

The Hon'ble Mr. Justice B. E. Saksingh V. C.

The Hon'ble Mr. K. Muthukumar, A.M.

1. Whether Reporters of local papers may be allowed to see the judgement ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgement ?
4. Whether to be circulated to all other Bench ?

SIGNATURE

MANISH/

CENTRAL ADMINISTRATIVE TRIBUNAL,
ALLAHABAD BENCH, ALLAHABAD.

Original Application No.363/92.

This the 13th day of December, 1994.

HON'BLE MR. JUSTICE B.C. SAKSENA, VICE-CHAIRMAN

HON'BLE MR. K. MUTHUKUMAR, MEMBER (ADMINISTRATIVE).

Bhagwanji Mani Tewari,
Son of Sri Brij Nath Mani
Tewari, R/o. Village Chaur,
Post Daraili Matia,
Dist Situa (Bihar),
C/o. Sri Spondra Nath T.T.E.
492-C, New Model Colony,
N.E.Rly., Izatnagar, Bareilly.

..... Applicant

BY ADVOCATE SHRI D.P. SINGH

Versus.

1. The Union of India,
through the General Manager,
(Personnel), N.E.Rly.,
Gorakhpur.
2. The Divisional Rly. Manager
N.E.Rly., Izatnagar.
3. The Divisional Rly. Manager,
(Personnel) Izatnagar,
Bareilly.
4. The Divisional Comm. Supdt.
N.E.Rly., Izatnagar,
Bareilly, U.P.

..... Respondents

BY ADVOCATE SHRI G.P. AGARWAL

O R D E R (Oral).

JUSTICE B.C. SAKSENA, VICE-CHAIRMAN.

We have heard the learned counsel for the parties. Through this O.A. the applicant has sought a direction to be issued to the respondents to declare the applicant as successful in the screening

examination, Commercial Department, held on 10/3/87, the result ^{of} thereof was declared on 17/9/87, and put him in the order of seniority over and above his juniors at Sr.No.23 in the list on a regular basis and pay him arrears of salary w.e.f. 17-9-87. The applicant has also sought quashing of the order black-listing his name (Annexure A-2).

2. The facts in short are that the applicant claims ^{had} that he worked for a total number of 562 days intermittently during the years 1982 to 1983, as a casual waterman in hot weather season, Bhojipura Station. His further case is that he was called to appear at screening test which was held on 10-3-87. The result of the said screening was announced on 17-9-87 but the name of the applicant was not included in the list of successful candidates for employment as Class IV.

3. The respondents, in the C.A. filed, have taken the stand that the applicant had worked earlier in the Carriage and waggon department of the Railway for 1703 days as claimed by the applicant. On the strength of his working in the Carriage and Waggon Department and on the basis of his working in the Commercial Department the applicant was called to appear at the screening test in the year 1987. Subsequently it was noticed that the applicant had furnished wrong details of his working in the Carriage and Waggon Department. The Competent authority issued a letter on 30-9-83 requiring the applicant to produce the original certificate of his working but he did not turn up.

4. The further stand of the respondents is that since the applicant did not turn up and did not produce the

original working record, it lead the respondents to conclude that the alleged working period of the applicant in the Carriage and Waggon Department was false and, therefore, by an order dated 26-11-83, copy of which is Annexure A-2 to the O.A., he was black-listed for future service. It is, therefore, stated that the applicant's result of the screening test held on 10-3-87 has not been declared.

5. The Applicant in his R. A. has denied the allegation that he worked in the Carriage and Waggon Department prior to 1983 or at any time.

6. The learned counsel for the applicant urged that on the basis of his working days in the Commercial Department the applicant was eligible and had been called to appear at the screening test. The learned counsel for the applicant submits that once the applicant was permitted to appear at the screening test the respondents are duty-bound to declare his result. The learned counsel further submits that in view of the pleadings, on record and the denial of the applicant on the allegations that he had worked in the carriage and waggon department, the order black-listing him cannot be taken cognizance of to deprive the applicant of his right of the declaration of the result in the screening test in the Commercial Department.

7. We have given anxious consideration to the submission of the learned counsel for the applicant. The question whether or not the applicant had worked in the Carriage and Waggon Department involves a disputed question of facts and it is not possible for us to reach a positive finding on that aspect.

However, we also at the same time do not see any good reason to reject the averments made on behalf of the respondents that the applicant had worked in the Carriage and Waggon Department and because of the wrong information submitted by him he had been black-listed in the Carriage and Waggon Department and debarred him from future employment in the Railway. No allegations of malafide had been levelled against any of the officers and none has been impleaded by name as opposite party. We, therefore, cannot throw aside the stand of the respondents. The reason indicated for not declaring the result of the applicant also cannot be interfered with. The submission of the learned counsel for the applicant that once the applicant is permitted to appear at the screening test on the basis of his working days in the Commercial Department, the result of the screening test, as far as the applicant is concerned, is bound to be declared, we feel and hold that participation in the screening test on the ground of eligibility, if found to have been permitted under a false information and the factum of the black-listing of the applicant in the Carriage and Waggon Department having been noticed, the respondents were within their rights in not declaring the result of the applicant in the screening test held in the Commercial Deptt. No other point has been urged.

8. The learned counsel for the applicant next

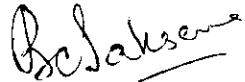
urged that the order black-listing the applicant for the Carriage and Waggon Department was passed in the year 1983. The applicant has been informed of the said order of black-listing in the year 1990 i.e. 3 years after he had appeared in the screening test in the Commercial Department. Therefore, when the result of the screening test held in 1987 was declared in September, 1987 the applicant's result should have been declared also. On that aspect of the matter we find that in the C.A. it has been stated that prior to passing the order black-listing the applicant, the competent authority by order dated 30-9-83 required the applicant to produce the original certificate of working, but he did not turn up. In the rejoinder affidavit, in reply to this averment the applicant has denied the receipt of the letter dated 30-9-83 and he alleges that he came to know of the same only through D.R.M.(Personnel), Izatnagar on 20-4-90, copy of which is annexed as Annexure A-10 to the O.A. Annexure-A-9 is in response to applicant's representation dated 3-2-90 whereby the applicant had claimed that the result of screening test be declared. This communication of April 1990 does not bely the averments made in the C.A. that the applicant had been called upon prior to the passing of the order for black-listing that he should appear for verification of the proof of his working days and the certificate of the Carriage and Waggon Department. We also find that by Annexure-A-9

the applicant was again called upon to appear before the authorities for the purpose of verification of number of working days in the Carriage and Waggon Department and to prove the veracity of the certificates given by him.

9. In view of the discussions herein above the O.A. lacks merits and it is dismissed. No order as to costs.



MEMBER (ADMIN.)



VICE-CHAIRMAN.

(nair)