

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH  
ALLAHABAD.

Allahabad this the 30th day of August 2000.

Original Application no 1080 of 1992.

Hon'ble Mr. S.K.I. Naqvi, Member-J  
Hon'ble Mr. M.P. Singh, Member-A

Hidayullah Khan,  
S/o late Shri N.U. Khan,  
R/o 95/1, Aligaoal, Jhansi.

... Applicant

C/A Shri R.K. Nigam

Versus

1. Union of India through General Manager,  
Central Railway, Bombay VT.
2. Divisional Railway Manager, Central Railway,  
Jhansi.

... Respondents

C/Rs Sri V.K. Goel

...2/-

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O R D E R

Hon'ble Mr. S.K.I. Naqvi, Member-J.

230 vacancies of Diesel Cleaner in the scale of Rs. 750 - 940 (RPS) were advertised in Dainik Jagran of Jhansi dated 8.8.87 and in response to this advertisement the applicant also submitted his application and after due process of written examination and viva-voce, the applicant was placed at sl. no. 160 in the merit list of successful candidates, but against his <sup>expectations</sup> ~~acceptance~~, he was not selected and who fared at lowest position than him in the merit list were given appointment. The applicant has come up before the Tribunal under section 19 of the Administrative Tribunals Act, 1985, assailing the action of respondents ~~being~~ against spirit of provision under article 14 and 16 of the Constitution by applying the policy of pick and choose and has sought for relief for order or direction to the respondents to issue appointment order in favour of applicant in accordance with the panel position through a time bound direction.

2. The respondents have contested the case and filed CA, in which the contention of the applicant had been admitted to the extent that he was impanelled at sl. no. 160, but case has been contested on the ground of being barred by period of limitation as well as on the ground that only candidates from sl. no. 1 to 150 were called for appointment and out of these 150 only 134 turned up & they were given

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appointment according to the vacancies available. It has also been mentioned that on account of closure of Steem Loco Shed at Gwalior, Agra and shrinkage of Steem Shed at Jhansi the cleaners working at that Steem Shed were became surplus and in order to absorb them it was decided that they be absorbed in the Diesel cadre. The General Manager, Central Railway, under these circumstances, imposed a ban on appointment of newly selected candidates. Under these circumstances no further appointments were made from remaining candidates on the panel. The respondents have also brought on record the fact that the candidates at sl. no. 161, 165 and 166 of the panel were given appointment being of reserved categories of SC communities.

3. Heard learned counsel for the rival contesting parties and perused the record.

4. The respondents have come up with a definite case that as per ~~advertisement~~ requirement the panel was prepared but as per requirement only 150 candidates were called from sl. no. 1 to 150 out of which only 134 turned up and they were given appointment accordingly. No further appointment from this panel could be made. In view of closure of Steem Loco Shed at Gwalior, Agra and shrinkage of Steem Shed at Jhansi the cleaners working there became surplus and they were to be absorbed in the Diesel Cadre. It has also been

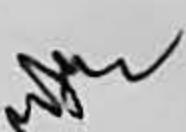
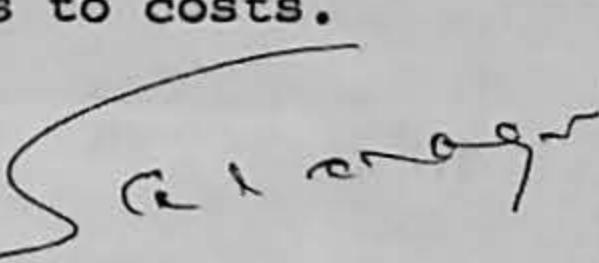
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clarified that the candidates at sl. no. 161, 165 & 166 were given appointment under reserved quota for SC candidates and, therefore, a candidate who is at sl. no. 160 could not be accommodated. We find force in this contention that when the panel could extend only upto 150, the applicant could not be considered who was at sl. no. 160 of the panel and those ~~and who were below him~~ <sup>below him in rank and given appointment</sup> were under reserved quota.

5. For the above we do not find the relief sought for can be provided to the applicant. The OA is dismissed accordingly.

6. There shall be no order as to costs.

  
Member-A  
Member-J

/pc/