

CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH

ALLAHABAD.

Allahabad this the 14th day of September 2001.

Original Application no. 615 of 1994.

Hon'ble Mr. Justice RRK Trivedi, Vice-Chairman
Hon'ble Maj Gen KK Srivastava, Administrative Member

Man Mohan Pandey, S/o Late Sri Ram Dulare Pandey,
R/o 161, Colonelganj, Allahabad working as
Personnel Inspector Division,
Railway Manager's Office, Northern Railway,
Allahabad Division.

... Applicant

In person

Versus

1. Union of India through General Manager,
Northern Railway,
Baroda House,
NEW DELHI.
2. Divisional Railway Manager,
Northern Railway, Allahabad Division,
in Divisional Railway Manager's Office,
ALLAHABAD.
3. Divisional Personnel Officer, Northern Railway,
Allahabad Division in Divisional Railway Manager's
Office,
ALLAHABAD.

... Respondents

C/Rs Sri AK Gaur

....2/-

ORDER

Hon'ble Maj Gen KK Srivastava, Member-A.

The applicant, Shri MM Pandey, in this OA filed under section 19 of the Administrative Tribunals Act, 1985, has challenged, D.R.M. Allahabad letter dated 10/16.11.1993 (Annexure A-1) informing that he was not found eligible for placement on the panel of Welfare Inspectors (in short WLI) grade Rs. 1400-2300 by the selection committee and has prayed that he be placed on the panel of WLI above his juniors and also he be promoted as Senior WLI in the grade of Rs. 1600-2660 from the date his juniors/ placed on the panel of WLI, or promoted with all consequential benefits. He has also prayed that the applicant be called to participate in the selection of Chief WLI grade 2000-3200 and selection of Chief WLI be held by a team of impartial officers. The applicant be also compensated with money in lieu of the services of Khalasi and he be compensated for these in terms of money amounting to Rs. 50,000/-. He should also be provided the services of one Khalasi for day to day public duty and also given the facility of first class passes w.e.f. 1.4.1994, the date from which his juniors were allowed this facility.

2. Briefly, the facts of the case as per applicant are that there are two cadres of inspectors in Personnel Branch of Northern Railway namely WLI and Personnel Inspectors (in short PI). Both these cadres have been merged in 1985 as per Railway Board's direction, but it has not been done in Northern Railway. Selection was initiated to fill 3 vacancies of WLI grade Rs. 1400-2300 vide notice dated 5.10.1991. The result of written examination was declared on 10.12.1991, the date for

the interview was fixed on 2.1.1992 which was postponed to 16.1.1992. In the meanwhile the selection of PI of 1992 calender was also initiated without pronouncing any calender programme. As there was procedural flaw in this selection of PI, Divisional Personnel Officer (in short DPO), who is also the Chairman of selection committee, postponed the selection of PI and decided to finalise the selection of WLI first. The DPO proceeded on 45 days leave and Assistant Personnel Officer as officiating DPO, initiated the selection of both the cadres namely WLI and PI with an idea that during the leave period of regular DPO. The applicant appeared in both the selections and qualified the written examinations. The viva-voce test of both the selection was held on 16.1.1992.

Two separate panels, one of WLI and other ~~was~~ of PI were declared on 23.1.1992. The junior persons to the applicant were placed on the panel of PI and the applicant alongwith his senior was placed on the panel of PI. Since the future prospects in the cadre of WLI are better, the applicant felt aggrieved and has challenged the selection. Hence this OA. The claim of the applicant has been contested by the respondents.

3. The applicant, Sri MM Pandey, in person argued and submitted that the respondents had predetermined to place his juniors in the panel of WLI. The selection of PI of 1992 calender has been done without any calender programme, which is irregular. Since the written examination for selection as WLI was taken separately, viva-voce test should have also been taken separately. A single viva voce test was held on 16.1.1992 in order to favour his juniors.

The Railway Board had ordered for merging both the cadres of WLI and PI. It has been done in many railways namely NF Rly, E. Rly, S. Rly, SE Rly etc. The same should have been done in N. Rly also and common seniority should have been prepared, which has not been done. He also argued that the allotment of different marks in common viva-voce test is not justified. He also submitted that the respondents have not worked within the provisions of Indian Railway Establishment Code/Mannuals/PS nos ie instructions as would be clear for the following reasons :-

- i. As per insturctions of Railway Board PS no. 10158 the respondents gave 9 days and 6 days time gap for written and suppl examination of PI by curtailing the statutory time gap.
- ii. As per Railway Board's PS no. 10508 the respondents cannot initiate any action without proper notification of calender programme as is evident in respect of PI selection.
- iii The action of officiating DPO changing the decision of the regular DPO to postpone the selection of PI without ⁱⁿsufficient cause is assailable.

4. Sri Pandey/ⁱⁿsubmitted that as per para 213 (a) & 215 (a) of IREM Vol I, the act of selection should be positive which is not so in this case, as the respondents had predetermined to place the junior persons on the panel of WLI. Therefore, there has been violation of all basic rules, regulations and criteria in the selection process.

5. Sri AK Gaur learned counsel for the respondents has strongly denied the allegations levelled by the applicant and submitted that both the panels i.e. panels for WLI & PI were decided by selection committees on 16.1.1992. ^{different} ^{was taken} Neither common interview nor common selection committee was constituted. Members of both the selection committees were different and the applicant was found suitable to be placed on the panel of PI only. He also submitted that channel of promotion for both WLI and PI are different and since the applicant is on the panel of PI, he has no right to claim the promotion and facilities available for WLI. No junior to the applicant has been provided first class pass, only those WLI who are in the grade of ^{stage of} Rs. 1600-2660 are provided first class pass on reaching ^{Rs 1680/- as per rules.} The officiating DPO was only a member of selection committee as Personnel Branch Officer and he was not the Chairman of the selection committee as alleged by the applicant. There has been no procedural flaw. Shri AK Gaur also submitted that the cadre is still separate, the ^{nature} ~~nature~~ of work and duties of WLI and PI are different. The cadres were merged on trial basis since 1985. But in Northern Railway they are still different. He finally submitted that only eligible candidates were called for selection as WLI. Separate interviews were held as is clear from ^{the} perusal of annexures A-8 & A-9 which indicates that written examination and viva-voce test for both the cadres were held separately. The entire selection process has been done as per rules on the subject.

6. We have heard the applicant in person and

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Sri AK Gaur learned counsel for the respondents and perused the records.

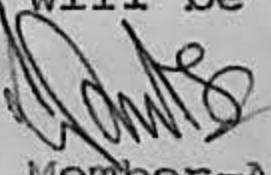
7. The main issue involved in this OA is whether the selection process adopted by the respondents in preparing the panels of WLI and PI is fair, just and as per rules or not. In order to arrive at the correct conclusion, we have perused the records of selection of both the cadres i.e. WLI & PI cadre, placed before us by the respondents. The apprehension of the applicant that there was a common viva-voce test for both the cadres and the selection committee was the same, is not borne on facts. From the records we find that there are 2 separate sheets of the proceedings of the selection, one for WLI cadre and the other for PI cadre. The marks of viva-voce have been awarded separately to the applicant for both selections and the applicant has not been able to make the grade to be put on the panel of WLI. The members who have signed these sheets are different except the DPO who is common being a member from Personnel Branch as per extant rules. It is, therefore, amply clear that there were two different selection committees for the cadres of WLI and PI. There is no irregularity in the result prepared for the panel of WLI and PI. Hence, we do not agree with the arguments of the applicant that the respondents had decided in advance to place the junior candidates on the panel of WLI. The respondents rightfully permitted only eligible candidates to appear in the written test and viva-voce and the argument of the applicant that they are junior to him has no legs to stand. The applicant also stated that he was promoted as PI on 1.2.1992, whereas his juniors were promoted as WLI on 24.1.1992. Obviously respondents could not have promoted the applicant as PI before 1.2.1992

for want of vacancy as has been admitted by the applicant. He cannot have a grievance that his juniors were promoted as WLI on 24.1.1992 because only those persons were promoted as WLI who were on the panel of WLI after due process of selection. We reject the applicant's contention in this regard as he has no reason to compare his date of promotion with the date of promotion of others who are on a different panel altogether. The selection for both the cadres i.e. WLI & PI has been conducted in just, impartial and fair manner as per the rules. Therefore, the applicant cannot claim right to be placed on the panel of WLI as he has not been found suitable for the same by the selection committee.

8. The applicant has challenged the promotion of WLI as Senior WLI in grade of Rs. 1600-2660 w.e.f. 1.4.1993 and also that they have been called to participate in the selection of Chief WLI in the grade of Rs. 2000-3200 on 25.3.1994 on the ground that all these persons are junior to him and such an opportunity of promotion has been denied to him. The applicant obviously forgets that since he was never selected as WLI, he cannot claim any promotion applicable to the cadre of WLI. The applicant is also not eligible to the help of Khalasi and travel facilities available to the persons of WLI cadre. All these facilities or chances of promotion accrue from the fact as to which post one is holding.

9. In view of the above, we find no ground to grant any relief to the applicant as prayed for. The OA is devoid of merit and, therefore, dismissed.

10. There will be no order as to costs.


Member-A


Vice-Chairman