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OPEN COURT

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD  
ADDITIONAL BENCH AT ALLAHABAD

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Allahabad : Dated this 26th day of February, 1996

Original Application No.1278 of 1996

District : Gorakhpur

CORAM:-

Hon'ble Mr. S. Das Gupta, A.M.

Hon'ble Mr. T.L. Verma, J.M.

Vijay Kumar Mishra,

S/o Sri Chotey Lal Mishra,

R/o 720/A, Bichia Jangal Tulsī Ram,

Post P.A.C. Camp, Gorakhpur,

at present working as Trains Clerk

in North Eastern Railway at Gorakhpur.

(By Sri V.C. Dixit, Advocate)

. . . . . Applicant

Versus

1. Union of India, through the  
General Manager, North Eastern Railway,  
Gorakhpur.
2. General Manager, North Eastern Railway,  
Gorakhpur.
3. Chief Personnel Officer, North Eastern Railway,  
Gorakhpur.
4. Selection Committee, North Eastern Railway,  
Gorakhpur.
5. Km. Manju Singh D/o Sri Kamla Singh,  
Working as Enquiry-Cum-Reservation Clerk in  
North Eastern Railway, Gorakhpur.

(By Sri Prashant Mathur, Advocate)

. . . . . Respondents

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O R D E R (O\_r\_a\_l\_)

By Hon'ble Mr. S. Das Gupta, A.M.

In this application filed under Section 19 of the Administrative Tribunals Act, 1995, the prayer is for a direction to the respondent no.2 to decide the applicant's representation dated 22-11-1994 and to appoint the applicant on the post of Enquiry-cum-Reservation Clerk or on equivalent post as given to respondent nos.5 and 6.

2. The material averments in the application are that the applicant was selected for a Group 'C' post against Scout and Guide Quota for which a selection committee was constituted by respondent no.2. It is stated that this committee selected 12 candidates including the candidate for being appointed in Group 'C' post. The applicant was placed on Serial No.2 of the select list whereas respondent nos.5 and 6 were placed at Serial Nos.3 and 4 and the said list was published on 8-4-1992. A copy of this list has been placed at Annexure-A-2. The applicant was initially appointed on the post of skilled pattern maker/carpenter but the appointment was subsequently changed to that of Trains Clerk. He was sent on training and after due completion of the training he was actually appointed as Trains Clerk by an order dated 11-8-1993. The applicant's grievance is that while he was appointed as Trains Clerk in the pay scale of Rs.950-1500, the respondents No.5 and 6 who were placed below him in the select list were appointed on the post of Enquiry-cum-Reservation Clerk in the higher scale of Rs.1400-2300. The applicant has alleged that his appointment on the post of Trains Clerk on the lower scale of pay is discriminatory and violative of the principles of natural justice. Hence, this application.

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3. When the case came up for admission, we heard the learned counsel for the applicant and carefully went through the pleadings.

4. The only ground taken by the applicant is that he has been placed at Serial No.2 of the select list whereas respondent nos.5 and 6 were placed at Serial Nos.3 and 4 of the said list. It is quite clear from the perusal of the list at Annexure-A-2 that the said list is not in order of merit. The applicant was considered fit for the post of skilled pattern maker/ carpenter whereas respondent nos.5 and 6 were considered fit for the post of Enquiry-cum-Reservation Clerk and Primary Teacher respectively. The very fact that all the 12 persons in the list were found fit for different posts is proof enough of the fact that the said list is not a merit list. As this is <sup>the</sup> a basic foundation for for the claim of the applicant, the ~~same~~ claim is totally untenable.

5. That apart, the fact remains that the applicant by his own averments accepted the post of Trains Clerk and joined that post on 19-8-1993. Having accepted the post, he <sup>cannot</sup> now claim that ~~now~~ he should have been appointed as Enquiry-cum-Reservation Clerk. If at all, he should have protested ~~it~~ at that time whereas by his own statement his first representation against the alleged discrimination was on 22-11-1994 i.e. more than a year after his appointment as Trains Clerk.

6. In view of the foregoing, we find that the the application is totally devoid of merit and is, therefore, dismissed summarily.

  
Member (J)

  
Member (A)

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