

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD

Allahabad, this the 16th day of September, 2002.

Original Application No. 244 of 1995.

Hon'ble Mr. S. Dayal, Member (A)

Hon'ble Mrs. Meera Chibber, Member (J)

Awadhesh Kumar Bharti a/a 37 years S/o Sri Jai Mukh Ram
Senior Gangman under permanent Way Inspector Northern
Railway, Varanasi.

..... Applicant

Counsel for the applicant:- Shri R.C. Johari
Shri Vipin Sinha

Versus

- 1- The Union of India through its General Manager,
Northern Railway, Head quarter Office Baroda House,
New Delhi.
- 2- The divisional Railway Manager, Northern Railway,
Hazratganj, Lucknow.
- 3- The Asstt Engineer, Northern Railway Varanasi-
Cantt Varanasi.

..... Respondents.

Counsel for the respondents:- Shri G.P. Agarwal.

O R D E R

(By Hon'ble Mrs. Meera Chibber, Member (J))

The applicant has claimed the following reliefs :-

- (i) The impugned order No- 7-E/PWI/BSB/94 dated-9-12-94.

(Annexure A-I) issued by the Asstt-Engineer, Northern
Railway, Varanasi in respect of the Senior most Gangman
to have been passed in the selection of Keyman and put
up on panel of the Keyman and selection conducted on
9-12-94 be quashed.

- (ii) The applicant may be declared to have been passed in
the seniority cum suitability test conducted on 8-8-94 for
the post of Keyman and to be empanelled for the post of Keyman
against the reservation for members of schedule caste post
to be filled by promotion.



iii) Any other order which the Tribunal may deem it fit and just.

2. The order dated 9-12-1994 is filed at page 28 as Annexure-I of the O.A which reads as under:-

"The undernoted Sr. most gangman have been passed in the selection of Keyman and put up on panel of Keyman from previous record and selection conducted on 9-12-1994.

1) S/Shri Arvind Kumar Singh s/o Shri Gobind pd.- S.T

2) Shri Ram Bharat s/o Shri Manraj.

3) Shri Fauzdar s/o Shri Jagannath.

PWI/BSB to please post them against existing vacancy of Keyman under advise to this office.

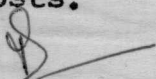
3. The applicant has specifically stated in ground 'Z' that it is not understood as to how the name of one Shri Bharat, s/o Manraj was incorporated in the panel of Keyman when no such person ever participated in the selection which was conducted by the Assistant Engineer on 8-8-1994 and 9-12-1994. Since the applicant's counsel was not present, we had tried to find out the stand taken by the respondents to this particular ground. But the perusal of the counter shows that there is no specific denial to this averment of the applicant. Even though the respondents have otherwise stated that since there were number of other persons who were senior to the applicant and the applicant was down below in the seniority list. Naturally those who were above in the seniority list would have been empanelled and the applicant cannot claim as a matter of right to be empanelled its being a promotional post.


4. The respondents counsel had taken a preliminary objection to the maintainability of the O.A on the ground that even though the applicant has sought quashing of the panel dated 9.12.1994 but none of the person, who have been

empanelled, have ~~not~~^{been} been impleaded as parties in the present O.A. Therefore, no order can be passed at their back without giving them any opportunity and the O.A is bad for nonjoinder of necessary parties.

5. We would agree with the respondents counsel on this aspect that no adverse orders can be passed against any selected person, unless he has been afforded an opportunity by impleading him as respondent therefore we could have dismissed the O.A on this very ground. However, it is seen from the averments made by the applicant that against the said selection, applicant had given a detailed representation to the Divisional Railway Manager stating all his grievances therein (page 42 onwards) but till date the respondents have not given any reply to the applicant. Therefore, in the interest of justice we dispose of this O.A by giving direction to the respondents to consider the said representation of the applicant and pass a detailed speaking order there on within a period of 3 months from the date of receipt a copy of the this order and communicate the same to the applicant. With the above direction the O.A. is disposed of.

NO costs.


Member (J)


Member (A)

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