

(Open Court)

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD.

Allahabad, this the 26th day of July, 2000.

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

Hon'ble Mr. Rafiq Uddin, Member (J)

ORIGINAL APPLICATION NO. 392 of 1995.

Islam Khan, S/o Zaheer Ahmad,
Resident of 225/168-D, Abu Nagar,
Fatehpur.

...Applicant

C/A Shri K.K. Mishra, Adv.

Versus

1. Union of India, through Secretary,
Ministry of Railways, Rail Bhawan,
New Delhi.
2. Railway Recruitment Board, through Chairman,
Nawab Yusuf Road, Allahabad.
3. Addl. Secretary, Railway Recruitment Board,
Nawab Yusuf Road, Allahabad.
4. General Manager (Personnel), Northern Rly.,
Baroda House, New Delhi.
5. Md. Shahzad, Junior Clerk, N.R.
F.W.I. Office Tat Mill Chauraha (Near Ganges Flourmill)
Kanpur.

...Respondents.

C/R Shri A.K. Gaur, Adv.

ORDER

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

This application has been filed for seeking direction to the respondents to issue an appointment letter to the applicant for the post of Goods Clerk. Further directions are sought to the respondents to give all consequential benefits to the applicant with retrospective effect.

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2. The case of the applicant is that he applied against Employment Notice No. 1/82 of 1982 through Employment News inviting application for the post of Goods Clerk, Trains Clerk, Ticket Collector etc. The applicant gave his application. He was declared successful in the examination after written and interview on 31.10.1986 and secured 5th position. He was informed by letter dated November 1986 of the respondents that he was found suitable for the post of Goods Clerk in the pay scale of Rs. 260-430/- having secured 5th position in order of merit amongst 63 selected candidates and that his appointment letter would be issued within reasonable time. The applicant claims to have continued to make an inquiry from the authorities about his letter of appointment without any result. He claims to have got information in 1994 that a candidate who was placed lower in the panel had been appointed. He, therefore, sent his representation dated 24.03.1994 to the Ministry of Railways. He sent a notice under Section 80 CPC on 28.07.1994 but no result came from that.

3. The arguments of Shri K.K. Mishra for the applicant and Shri A.K. Gaur for the respondents have been heard.

4. The case of the respondents is that the applicant was selected for the post of Goods Clerk by Railway Recruitment Board, Allahabad vide panel dated November 1986 and he had approached the railway administration for his appointment. Since a period of nine years have already elapsed the respondents assumed that the applicant was not at all interested in the job. They have also denied that they have received any representation from the applicant in their office. They have mentioned that no

recruitment took place for the category of Goods Clerk after the panel in which the applicant was selected was finalised.

5. The applicant has referred to letter of respondents dated .11.1986 which is reproduced as below:

“विषय :- नियोजन सूचना संख्या 1/82
(रेलवे बोर्ड) का वेतनमान रु० 260-43%/-,
260-400/- के अन्तर्गत आपका आवेदन पत्र।

उपरोक्त के सन्दर्भ में हुई परीक्षा के आधार पर आपको -पद माल लिपिक वेतनमान रु० 260-43%/- (संवै०) के लिये उपयुक्त पाया गया है। कुल 63 चयनित प्रत्याशियों में योग्यता क्रम में आपको 5 वाँ स्थान प्राप्त हुआ है।

चयनित व्यक्तियों के नाम की सूची महाप्रबन्धक (कार्मिक) उ० रे० प्रधान कार्यालय, बड़ौदा हाउस, नई दिल्ली को भेज दी गयी है।

नियुक्ति पत्र महाप्रबन्धक (कार्मिक) द्वारा ही समुचित समय पर आपको भेजा जायेगा। इस कार्यालय से इस सम्बन्ध में अब कोई पत्राचार नहीं किया जायेगा।

ध्यान रहे यह चयन निर्धारित नियम एवं चिकित्सा परीक्षा में उपयुक्त होने पर ही होगा है।”

6. The main contention of the respondents is that the applicant did not approach the respondents for a period of nine years despite having received this letter. We find from the letter that the respondents had clearly stated that his letter of appointment would be sent at an appropriate time and that no correspondence with regard to this would be entertained by the respondents. The applicant had mentioned that he came to know of the fact that person

junior to him was appointed when he meet one Md. Shahzad, who has been impleaded as respondent No. 5. We find from Annexure-2 reply of the respondents dated 22.09.1995 that while the applicant is at Sl. No. 5 of the select list Md. Shahzad at Sl. No. 12 of the list. Thus the case of the applicant is that he came to know of appointment of his junior only in 1994 whereafter he approached the respondents without any result. We find from the order dated 12.12.1995 that the respondents were required to produce the file pertaining to preparation of panel in 1986 and operation thereof. The learned counsel for the respondents has informed us that the said file pertaining to preparation of panel and operation of the panel is not available with the respondents. Therefore, it is not possible to know as to when the persons included in the select list were appointed. It is respondent's own averment in their counter reply dated 22.09.1995 that no recruitment had taken place for the category of Goods Clerk after the panel in which the applicant was selected was made.

7. We find it very strange that the respondents expected the applicant to approach them after having been selected. They had themselves informed the applicant that his letter of appointment would be issued at an appropriate time and that no correspondence was to be entertained from the applicant. The respondents have nowhere averred that they had issued such a letter of appointment. It was the duty of the respondents to have done so.

8. We, therefore, condone delay if any in filing this O.A.

9. In the circumstances of the case we find it in the interest of justice to direct the respondents to offer appointment to the applicant to the post of Goods Clerk. The applicant shall be assigned seniority from the date his junior in panel dated 11.11.1986 was appointed. He would be entitled to fixation of pay notionally from the date of appointment of his junior and actual payment from the date of appointment to the post of Goods Clerk by the respondents. This shall be complied with in three months time from the date of furnishing a copy of this order to the respondents.

There shall be no order as to costs.

R. K. Jindal
Member (J)

[Signature]
Member (A)

/S.P./