

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Q.A. No. 1102 of 1999

Dated : This the 5th day of April, 2004

HON'BLE MRS. MEERA CHHIBBER, J.M.
HON'BLE MR.S.C. Chaube, A.M.

1. Arun Kumar Rai son of Sri Prem Chandra Rai working as Diesel Mechanic (Electric), Diesel Loco Shed, Izzat Nagar Bareilly Roll. No. 001098.
2. Chandra Bhan Chaurasia son of Sri Ram Narain, working as Diesel Khalasi, r/o 227 A, New Model Railway Colony, Izzatnagar, Bareilly, Roll No. 002103.
3. Deepak Kumar Bhattachariya, son of Diwakar Bhattachariya, working as Diesel Khalasi, r/o Sant Nagar, Near Shiv Parvati Mandir, Post Air Force, Izzatnagar, Bareilly. Roll No. 001106.
4. Pramod Kumar Rana son of Sri Uday Singh Rana, working as Diesel Khalasi, Loco Shed Izzat Nagar Bareilly., Roll No. 001097.
5. Balram Uraon son of Sri Viesa Uraon, working as Khalasi in Carriage repairing shop, Chief Workshop Manager, Izzat Nagar, Bareilly. Roll. No. 002082.

....Applicants.

By Advocate : Shri S.K.Om

Versus

1. Union of India through Secretary Railway Board, New Delhi.
2. General Manager, N.E.Railway, Gorakhpur.
3. Chief Personnel Officer N.E.Railway, Gorakhpur.
4. Senior Divisional Personnel Officer, N.E.Railway, Izzatnagar, Bareilly.

.....Respondents.

By Advocate : Shri D.C.Saxena

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By Hon'ble Mrs. Meera Chhibber, JM



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Five persons have filed this O. A. claiming the following relief(s):-

- "(a) to issue a writ order or direction in the nature of mandamus commanding the respondents to promote the petitioners on the post of juniors and senior clerks respectively on provisional basis and permit them to acquire the Typing skill within a period of 2 years as provide in the various circulars of Railway Board.
- (b) to call for the record and issue a writ, order or direction in the nature of certiorari quashing the result dt. 8,July, 1997 Annexure.8)
- (c) to issue a writ order or direction/the nature of mandamus commanding the respondents to hold the Typing speed test in-pursuance of notification dt. 8 Nov.1996 against and permit the petitioners to bring there own Typing Machines"

2. The fact, as narrated by the applicants, are that the respondents issued a notification dated 08.11.96 for filling 67 vacancies of Junior Clerks and 36 vacancies of Senior Clerks for which all Class III and IV categories were eligible to appear in the selection irrespective of the grade and cadre. All the applicants applied for both the posts i.e. Junior and Senior Clerks. Written test was held on 02.5.96 and the result was declared on 23.5.1997, in which applicants were declared successful. Thereafter on 13.6.1997 applicants were called to appear in the typing test and they were directed not to bring their typing machines. The result of both Senior & Junior Clerks was declared on 08.7.1997 wherein applicants were declared as failed. The applicants have, thus, filed the present O.A. seeking the relief(s) as mentioned above.

3. Learned counsel for the respondents submitted that Secretary, Railway Board could not have been impleaded as respondents in this case as he has nothing to do in these selection, therefore, his name should be deleted from the

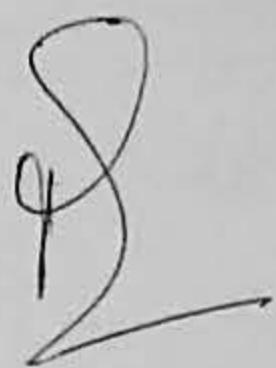


array of parties. For this purpose respondents have filed M.A.No.674/2000, which is allowed. The Secretary, Railway Board is deleted from the array of respondents. Next contention raised by the respondents' counsel was once applicants had submitted themselves for undertaking the typing test without their own typewriters, they cannot raise the objection later on as they have acquiesced to the situation. Moreover all the persons, who appeared for these selections, were provided typewriters by the department only, therefore, they were all treated in the same manner and the applicants cannot say that they were treated in a different manner or it caused them any prejudice by not permitting them to bring their own typewriters. He has, thus, submitted that there is no merit in the O.A. the same may accordingly be dismissed.

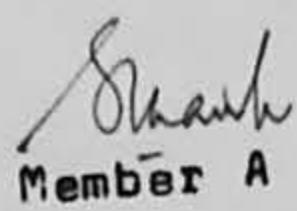
4. We have heard both the counsel and perused the pleadings as well. Counsel for the applicant fairly conceded that similar matters filed by other candidates have already been dismissed by this Tribunal by passing detailed order in O.A. No.1386/1997 on 26.11.2002 and vide order dated 3.12.02 passed in O.A.No. 816/1998 (Copy of the order is taken on record). It is seen that the only ground taken by the applicants is that the action of respondents for not permitting them to bring their own typing machines is illegal and arbitrary. This point need not detain us for long as Hon'ble Supreme Court has already held that once a candidate appears in the test is declared failed, he cannot be allowed to turn around and challenge the procedure of selection. The present case is squarely covered by the judgment of Hon'ble Supreme Court and even otherwise the Tribunal has already rejected identical matters as stated above.

5. Therefore, we find no good ground to interfere in the present case. Since this matter is fully covered by

the judgment of Hon'ble Supreme Court referred to above,
this O.A. is also dismissed being devoid of merit with
no order as to costs.



Member J



Member A

Brijesh/-