

Open Court

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

ALLAHABAD

Original Application No. 565 of 2000

Dated : this the 16th day of September, 2003

HON'BLE MR. JUSTICE R.R.K. TRIVEDI, VICE-CHAIRMAN
HON'BLE MR. D.R.TIWARI, MEMBER - (A)

- 1- Mukesh Kumar Saxena,
S/o Shri Prakash Narain Saxena,
R/o Baxipur Thawai Ka Pul,
Gorakhpur.
- 2- Ravi Prakash Lal,
S/o Shri Yadu Nandan Lal,
R/o 27 Andhiyari (Bagh),
Uttari, Gorakhpur.
- 3- Satya Nand Srivastava son of
Shri Jagdamba Prasad Srivastava,
R/o Bichhiya Camp, Gorakhpur.
4. Suresh Kumar Son of Shri Ram Roop
Prasad, R/o Quarter No. 589-A,
Baulia Railway Colony, Gorakhpur.

... Applicant.

Counsel for the applicant : Shri T.S.Pandey/
Shri S. Singh.

|:| versus |:|

- 1- Union of India, through General Manager,
Northern Eastern Railway, Gorakhpur.
- 2- Chief Signal and Telecommunication Engineer,
N.E.R., Gorakhpur.
- 3- Chief Workship Manager, Signal Workship,
Gorakhpur, Cantt. N.E.R., Gorakhpur.

... Respondents.

Counsel for the respondents : Shri Amit Sthalekar

O R D E R (O R A L)

By Hon'ble Mr. Justice R.R.K.Trivedi, V.C.


we have heard Shri T.S.Pandey, counsel for the
applicants and counsel for the respondents.

2. By this O.A. under section 19 of Administrative Tribunal Act 1985, the applicants have challenged the order dated 20.4.2000 (Annexure-I) by which respondent no.2 i.e. Chief Signal and Telecommunication Engineer, N.E.R., Gorakhpur cancelled the written examination held on 16.1.2000 and the result declared on 01.02.2000, for selecting Chargeman B/Junior Engineer Grade II in the scale Rs.5000 - 8000.

3. The facts of the case are that the respondents by notification dated 19.08.1999 (Annexure-II) proposed to hold selection for four posts of Chargeman B/Junior Engineer Gr. II. In pursuance of which, written examination was held on 16.1.2000 in which 48 persons appeared including applicants. The result of the written examination was declared on 01.02.2000, a copy of the result has been filed as Annexure -IV. Only ten persons were declared successful, who were to be called for viva voce. The names of the applicants are mentioned at the serial nos. 2 to 5. However, result of the written examination dated 16.1.2000 was cancelled by the impugned order dated 20.04.2000. The counsel for the applicants has submitted that the impugned order dated 20.04.2000, does not disclose any reason for cancelling the result, is illegal and arbitrary. Even if the written examination was cancelled, the respondents were under obligation to proceed further by holding fresh written examination.

4. The counsel for the applicants has placed reliance on the judgment of Hon'ble Supreme Court Munna Roy Vs. U.O.I. & Others. 2000(9)SCC page 183. Learned counsel has also placed unreported judgments of this Tribunal, one is dated 05.05.2000 passed in O.A.No.1197 of 1997 Lalji Kanaujia & Others Vs. U.O.I. & Others and order dated 21.3.2002 in O.A.No. 359 of 2001 Prabhat Mohan Saxena Vs. U.O.I. & Others.

5. Learned counsel for the respondents on the other hand submitted that there were cogent and legal reasons for

canceling the written examination and the result. In paragraphs 12 and 14 of the Counter Affidavit, it has been stated that on account of the administrative error coding slip could not be put on one of the answer book out of the two answer books and, therefore, there was likelihood of answer book of one candidate being tagged with the answer book of another candidate and it ^{that} ~~was~~ for this reason the result dt. 01.2.2000 was cancelled. Learned counsel has submitted that it is incorrect to say that result was cancelled on account of pressure of the Union. It is also submitted by the learned counsel for the respondents that the applicants who had only appeared in the written examination and they were not selected, ~~they~~ have no right to question the impugned order, cancelling the selection. The learned counsel has place reliance on the judgment of Hon'ble Supreme Court in case of Union Territory of Chandigarh Vs. Dilbagh Singh & Others 1993 (1) SCC 154 and U.O.I. & Ors. Vs. Tarun Kumar Singh & Others A.I.R. 2001 SC 2196. We have carefully considered the submissions made by the counsel for the parties. Hon'ble Supreme Court in case of Union Territory of Chandigarh Vs. Dilbagh Singh & Others (supra) has held that selectees are not entitled of opportunity of hearing before cancellation as even though they have legitimate expectation but they have no indefeasible right to be appointed in absence of rule to that effect, but decision/ action must be non arbitrary and bona fide. Where Administration cancelled the select list on finding that the list was dubious having been prepared in unfair and unjudicious manner the cancellation was bonafide and for valid reasons. In the present, case we are satisfied that the reasons stated by the respondents for cancelling the result of the written examination was justified and proper and it could not be ruled out that in absence of coding the second answer book, ^{book} ~~book~~ of one candidate could be tagged with the answer book of another candidate.

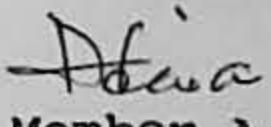


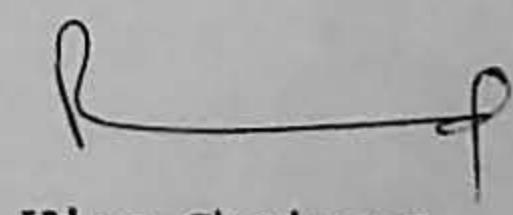
6. The counsel for the applicants submitted that if this mistake was there, the respondents should not have declared the result. Material has not placed before us showing the exact date on which the mistake/error was detected but the facts remain that such possibility was there. Therefore, merely on the result was declared, the decision taken by the respondents can not be termed to be malafide and arbitrary. In the facts and circumstances we do not find any good reason to quash the impugned order dated 20.4.2000. However, next important question is that even if the written examination and the result thereof was cancelled for the alleged mistake, the respondents were under obligation to hold fresh examination in pursuance of the notification dated 19.08.1999, which has not been cancelled.

7. It has been pointed out that in the notification the eligibility criteria was different and by which applicants may suffer and may not be eligible in the subsequent selections and thus they ~~are~~ shall be deprived of the valuable right.

8. For the reasons stated above, this O.A. is disposed of finally with the direction to respondent no.2 to hold fresh written examination for selecting Chargemen B/J.E. Grade II under 25% quota under inter apprentice in pursuance of the notification dated 19.8.1999. All the candidates who were notified eligible on 03.11.1999, ~~by notices~~, ^{and} they will be entitled to appear in the examination. The selection proceedings in pursuance of the notification dated 19.8.1999 shall be completed within 4 months from the date of receipt of a copy of this order.

9. There shall be no order as to costs.


Member A


Vice-Chairman