

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH  
ALLAHABAD

Dated: This the 27<sup>th</sup> day of FEBRUARY 2008.

ORIGINAL APPLICATION NO. 1270 OF 2002.

Hon'ble Mr. Ashok S. Karamadi, Member (J)

1. Bindeshwari Ram, S/o late Surya Dev Ram, R/o 339/2 Diesel Loco Shed, Mughalsarai, Distt: Chandauli.
2. Phool Chandra, S/o late Kallan, R/o Vill and P.O. Barachha Distt: Chandauli.

.....Applicant

By Adv: Sri R. Verma

Versus.

1. The Union of India through the General Manager, Eastern Railway, 17-Netaji Subhash Road, Calcutta.
2. Senior Divisional Personnel Officer, Eastern Railway, Mughalsarai.

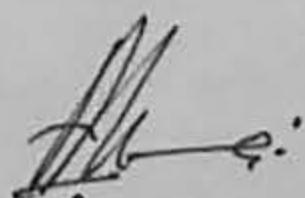
.....Respondents

By Adv: Sri D.P. Singh

O R D E R

This OA is filed seeking quashing of the order dated 16.08.2002 and for other reliefs.

2. It is an admitted fact that the applicants 05 in number earlier filed OA No. 242/93. This OA is filed by only two of the applicants for the aforementioned relief. The said OA was disposed of on 03.08.2000 directing the respondents to pass fresh order giving applicants opportunity of hearing in accordance with law. Thereafter, the applicants filed representation on 05.07.2002 to the respondents. The respondents have passed the impugned order, produced as Annexure



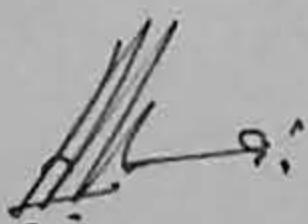
1, in respect of all the 05 applicants who are the parties in the said OA and passed the order that the applicants are not entitled for appointment as claimed. Being aggrieved by the same this OA is filed for the aforementioned relief.

3. On notice the respondents have filed CA contending that the respondents have taken into consideration order passed by this Tribunal and on consideration of the relevant facts and the materials on record the competent authority passed the order with regard to the applicants and have found that as the case detected on scrutiny of the material pertaining on the materials on record by the competent authority regarding the engagement as substitute. About 30 such cases detected were without approval of the competent authority. Therefore, for this reason the respondents have rejected the claim of the applicant and for the same reason sought for dismissal of OA.

4. I have heard the learned counsel for the applicant as well as the respondents. Learned counsel for the applicant has taken through the order passed in the earlier OA and submits that having regard to the fact that in the earlier OA direction was issued to the respondents to consider the case of the applicant and to pass speaking order taking into account the merits of the case with regard to



absorption of the applicants. Since the respondents have failed to take into consideration of the order passed by the Tribunal only on the basis of the statement that the names of 30 persons were not approved by the competent authority is not sustainable under law. To consider this contention of the learned counsel for the applicant I have perused the order passed by this Tribunal earlier and also the speaking order passed by the respondents, which is impugned herein. On perusal of the impugned order it is seen that the case of the applicants were considered by the undersigned after going through the relevant records and the papers available in the office and found that the Mughalsarai Division was created in the year 1978 and came into force in the year 1980 onwards. At that time during transfer of the urgent papers it was reported that number of fraudulent appointments and transfer has been taken place. On scrutiny done in respect of 150 substitutes who appointed in the year 1980, it was also found that there was no approval of the competent authority for their engagements as substitutes. About 30 such cases were found and in view of this reason the claim of the applicants for appointment was declined. It is seen from the order that even though it is stated that the relevant papers and records available in the office of Mughalsarai Division, it does not disclose regarding relevant records which are taken into consideration and the relevant papers looked into by the competent authority



by application of mind about the facts of the case of the applicants is concerned. In the absence of the sufficient material forthcoming in the speaking order with regard to the statement of the competent authority while passing the impugned order it cannot be said that this is in accordance with law. In the absence of any material on record in support of the reasons of the findings recorded with regard to the order of the applicants claim even though the earlier order of this Tribunal which directed the respondents to pass appropriate order in accordance with law means that the competent authority who is entrusted to look into the relevant records by application of mind the same should have been done based on record, which are taken into consideration while deciding the issue of the applicants are concerned, as it is seen from the order produced here does not contain any material on record or produced alongwith the Counter Affidavit filed in support of the impugned order does not have any material. In the absence of the same it can be said that the impugned order passed by the respondents suffers from illegality without applying mind by the competent authority while passing the impugned order and, therefore, I am of the view the order does not sustain in the eyes of law and as such the matter is remitted back to the competent authority to consider and pass order by looking into the relevant materials and the records.

A handwritten signature in black ink, appearing to be a stylized 'D' or 'R' followed by a surname.

5. In view of the foregoing reasons the OA is allowed, and the impugned order is quashed, the matter is remitted back to the respondent Competent Authority with the direction to pass speaking order in accordance with law, within a period of 03 months from the date of receipt of copy of this order. No costs.



Member (J)

/pc/