

RESERVED
CENTRAL ADMINISTRATIVE TRIBUNAL,
ALLAHABAD BENCH
ALLAHABAD

Allahabad this the 19th day of March, 2010

PRESENT:

HON'BLE MR. A.K.GAUR, MEMBER-J

HON'BLE MRS.MANJULIKA GAUTAM, MEMBER-A

Original Application No.1406/2002
 (U/s 19 of the Administrative Tribunals Act 1985)

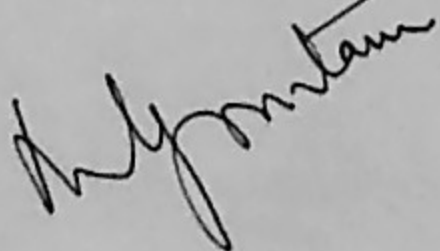
Mateshwari Prasad Mishra,
 S/o late Shivapati Mishra,
 R/o 261- Niralanagar Harahwa Phatak,
 P.O. Dasharatpur Distt. Gorakhpur.
 Presently posted as Depot Material Supdt. Gr.'I'
 at Railway Press, N.E. Railway, Gorakhpur ...Applicant

(By Advocate : S/Sri S. Mandhyan/ S.K.Mishra)

Versus

1. Union of India, through the General Manager,
N. E. Railway, Gorakhpur.
2. Dy. Chief Personnel Officer (Gazetted)
N.E. Railway, Gorakhpur.
3. The General Manager (P), N.E. Railway, Gorakhpur.
4. The Controller of Stores (Depot),
N.E. Railway, Gorakhpur.
5. Dy. Controller of Stores (Depot) N.E.Railways, Gorakhpur.
6. Sri J.B.Singh, Asstt. Controller of Stores,
(Depot) N.E. Railways, Gorakhpur.
7. Sr. R.P.Singh (Retd),
Asstt. Controller of Stores (Depot),
N.E. Railways, Gorakhpur
(to be served through the Controller of Stores,
N.E. Railway, Gorakhpur). ...Respondents

(By Advocate : Shri S.K. Anwar)



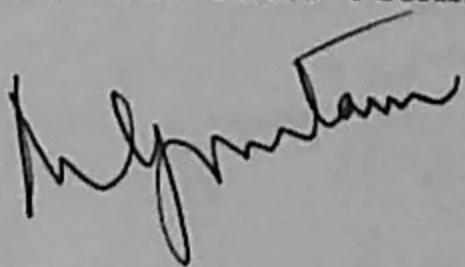
ORDER

HON'BLE MRS.MANJULIKA GAUTAM, MEMBER-A

The applicant is working on the post of Depot Material Superintendent (Gr.1). He was given an adverse entry in his ACR for the year 1997-98 which was communicated to him vide letter dated 5.2.1999. The applicant represented against this vide his letter dated 15.3.1999. But his representation was rejected vide letter dated 31.5.1999.

2 Again in the year 1998-99 he was given adverse entry in his ACR which was communicated to him vide letter dated 7/13th July 1999. The applicant represented vide letter dated 23.8.1999 which was also rejected vide letter dated 1.9.1999.

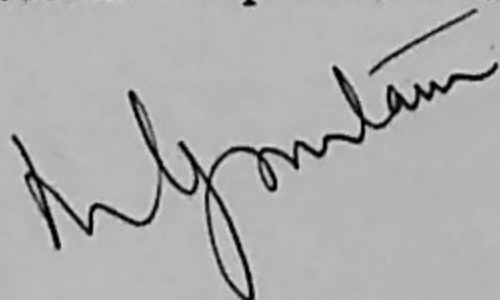
3. Meanwhile, a requisition dated 2.11.2001 was issued for filling up of six vacancies against 70 % promotion quota. The applicant appeared for the written test held on 2.12.2001 and he was declared pass along with five other candidates. In the final panel only four persons were declared selected and it did not include the name of the applicant. On enquiry, he was told that his name could not be included in the panel because he secured less than 60% marks in the service records as he had two adverse entries which had been communicated to him. Against his not



being selected the applicant has sent representation dated 25.2.2002 but no reply was received. Aggrieved by this, he has filed the present O.A. seeking the following reliefs:

- i. *To declare non-selection of the applicant for the post of Asstt. Controller of Stores (Group -B post) in pursuance of requisition dated 2.11.2001 (Annexure -A-8 to Comp.-II) and to include the name of the applicant in the panel declared on 25.1.2002 (Annexure A10 to Comp.II).*
- ii. *To quash the adverse entries communicated to the applicant vide letter dated 5.2.1999 and 7/13th July 1999 (Annexure A-1 and A3 to Comp-I) as also the orders dated 31.5.1999 and 1.9.1999 (Annexures A-2 and 4 to Comp.-II).*
- iii. *To issue a mandamus directing the respondents to promote the applicant on the post of Asstt. Controller Stores (Group -B post) from the date, same has been allowed to the persons included in the panel dated 35.1.2002 (Annexure A-10 to Comp- II) with all consequential benefits.*
- iv. *To issue any other order or direction as this Hon. Tribunal may deem fit and proper in the circumstances of the case.*

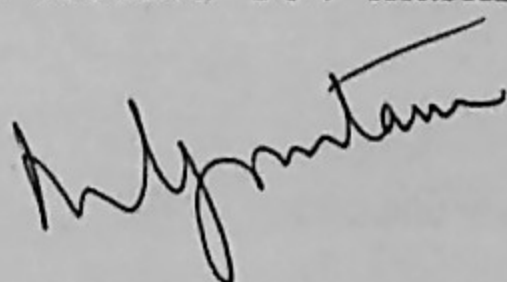
4. The case of the applicant is that the two adverse entries given to him were out of prejudice and were not placed before the accepting authority, but were communicated to him only after the views of the reporting and reviewing authorities were written. Therefore, he has sought for quashing of these two entries which were not given as per procedure. At the same time since he had qualified for the written test and had secured good marks but was not included in the panel, only on the basis of his service records



which was flawless except for the two adverse entries referred to above.

5. Respondents have filed counter affidavit explaining that the adverse entries were given as per procedure and his representation had been rejected by the competent authority. It has also been stated that, as per Railway Board circular dated 16.1.2001 the viva voce + record of service consists of 50 marks, out of which 25 marks are allotted for record of service and 25 marks for viva voce. In order to get empanelled for the post of ACS Group-B post, it is essential to get at least 15 marks out of 25 for service records. Since the applicant did not get the required 15 marks, he has not been included in the panel.

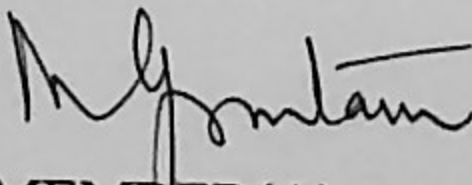
6. As per directions of this Tribunal, the original records regarding the two adverse entries communicated to the applicant and also the record of the selection/empanelment have been brought on record. A perusal of the record would show that the complaint of the applicant that those entries were not put up before the accepting authority, is not true and that all procedures had been followed while awarding the adverse entries to the applicant. The selection record also shows that, in the marking given to the six candidates under consideration the applicant was placed at Sl.No.6 and secured 104 marks out of 150 in the written test,

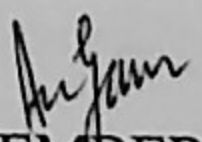


which is the highest among all the six candidates, but for the service record he secured only 11.5 marks out of 25, whereas 15 marks were mandatory. One other candidate placed at Sl.No.1, Shri Govind Prasad also secured 14.2 marks for service records and both the applicant and Shri Govind Prasad were declared unsuitable for the panel on the basis of their scoring less than 15 marks out of 25.

7. It is, thus, clear that the applicant's case has been dealt with as per rules and that no injustice has been done to him. There is no case for any intervention in the matter.

8. O.A. is accordingly dismissed. No costs.


MEMBER(A)


MEMBER(J)