

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

ORIGINAL APPLICATION NUMBER 233 OF 2002
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ALLAHABAD, THIS THE 16 DAY OF DECEMBER, 2004

HON'BLE MRS. MEERA CHHIBBER, MEMBER (J)
HON'BLE MR. S. C. CHAUBE, MEMBER (A)

1. Umesh Chandra Vishwakarma, son of Late Mani Ram Vishwakarma, resident of House No.290, Gayatri Nagar, Post Kudaghath, District-Gorakhpur.
2. Hari Om Upadhyay son of Late Kedar Nath Upadhyay, resident of Matches Factory Railway Colony, House No.625/E, Gorakhpur Cantt. Post Kudaghath, District-Gorakhpur.
3. Krishna Nand Sharma son of Late Jeet Lal Sharma, resident of House No.128/126 Hazaripur, Gorakhpur.
4. Ram Bachan son of Shri Ram Das, resident of Quarter No.111/L, Bauliya Railway, Colony, Gorakhpur.
5. Shri Satish Chandra son of Shri Chandra Shekhar Prasad, Resident of Quarter No.E/12, Railway Colony, Gorakhpur Cantt., Post Kudaghath, District-Gorakhpur, U.P..

....Applicants

(By Advocate :Shri Arvind Kumar)

V E R S U S

1. Union of India through the General Manager, Pul/Karkhana, Northern Eastern Railway, Gorakhpur.
2. Mukhya Karkhana Prabandhak, Pul Karkhana, Northern-Eastern Railway, Gorakhpur Cantt., District-Gorakhpur.
3. Deputy Chief Engineer/Pul/Head Quarters/Northern Eastern Railway, Gorakhpur Cantt, District-Gorakhpur.
4. Adhikshan Abhiyanta/Pul Karkhana, Northern Eastern Railway, Gorakhpur Cantt, District-Gorakhpur.

....Respondents.

(By Advocate :Shri A. V. Srivastava)

O R D E R

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By Hon'ble Mr. S. C. Chaube, A.M.

The applicants, five in number, have impugned order dated

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07.08.2001 passed by respondent No.4 Adhikshan Abhiyanta/Pul Karkhana, Northern Eastern Railway, Gorakhpur cancelling the Written Examination held on 16.03.2001 and interview held on 29.06.2001 for the 25% vacancies on the post of Beldar Gr. 3, diesel crane driver etc.

2. The facts, as per the applicants, are that the Executive Engineer Pul Karkhana Northern Eastern Railway Gorakhpur vide letter dated 16.12.1999 invited applications to fill up 25% apprentice quota. Accordingly, the applicants had applied for the same. They successfully completed the written test held on 18.03.2001 and interviews held on 11.04.2001. According to the applicants, to conduct the aforesaid written examination and interview, a selection committee was duly constituted as per the rules and prescribed procedure. Accordingly, the selection committee vide its minutes dated 29.06.2001 recommended the names of all the five applicants to this O.A. (Annexure A-5) for approval of the competent authority. However, without assigning any reason or giving any opportunity to show cause to the applicants, the respondent No.4 issued the impugned order dated 07.08.2001 cancelling the written examination as well as the interviews held in this connection.

3. Applicants have also invited attention to the provisions of Railway Establishment Manual/Rules which clearly provided that selection board shall be constituted for the purpose of making recommendation to the competent authority in respect of the Railway employees for selection posts. They have further clarified that such selection committee shall be constituted under the orders of the General Manager or Head of the department or other competent authority not lower than Divisional Railway Manager.

It has been claimed by the applicants that as per the aforesaid provision not only the head of the department but other authorities not below the rank of D.R.M. can recommend and constitute the selection committees. The applicants have further assailed the impugned order as illegal, arbitrary ^{and} malafide without giving any opportunity to the applicants to show cause because the applicants are fully eligible and entitled for the appointment. They have further claimed that the selection committee was constituted by respondent No.3 i.e. Deputy Chief Engineer Pull Headquarters North Eastern Railway, Corakhpur, who is ~~not~~ working on the post not below the rank of D.R.M. and performing the duty on the post of Chief Karkhana Prabandhak, thus having full and ample jurisdiction to make recommendation and constitute selection committee.

4. Respondents, on the other hand, have contended that merely by appearing in the written test and interview will not confer any legal right on the applicants unless the final panel ~~has~~ been declared after due approval of the competent authority i.e. head of the department. Further ~~they~~ that the selection committee was not constituted by the head of the department as required under the rules. The entire process of selection adopted was marred by procedural irregularity and hence cancelled vide order dated 07.08.2001. In support of their contention, the respondents have cited para 217 of I.R.E.M. which laid down that the selection committee has to be constituted by the head of the department. ^{only} The respondents have further contested that the fact that Deputy Chief Engineer/Bridge Workshop is equal rank to the rank of D.R.M. and thus, he is not entitled to constitute a selection committee. Thus, the applicants are not entitled to any legal remedy as prayed for by them.

5. We have perused the pleadings and heard counsel for

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parties.

6. The fact that the applicants passed written examination as also the interview is amply borne out by Annexure A-5 which is the minutes of the meeting of the selection committee containing the recommendation for empanelment of the applicants as per the decision of the selection committee. Further as per the Annexure A-3 which is a notification dated 30.03.2001 issued by Assistant Personnel Officer, the applicants were declared successful in the written examination held on 18.03.2001 and were further directed to attend interview on 03.04.2001 in the office of Executive Engineer Bridge Workshop Gorakhpur. The respondents have already admitted in para 8(d) of their counter affidavit that in the instant case there was procedural irregularity in constituting the selection Board which was not constituted by the Head of the department. Accordingly, the selection process was cancelled in terms of the relevant rules.

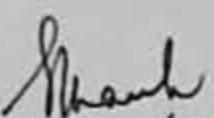
7. It is settled law that no right accrues to a person merely because a person is selected and his or her name is put on a panel. The applicants, therefore, have no right to claim appointment as their selection was contrary to the rules in force at that time. Even otherwise, there is nothing on record to suggest that the minutes of the meeting of Selection Committee (Annexure A-4) were approved by the competent authority.

8. In the peculiar facts and circumstances of the

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case, respondents are directed to allow the applicants to participate in the next promotion exam under 25% direct recruitment by giving relaxation in the prescribed age limit. In case the applicants are successful in the promotion tests, the respondents are directed to offer appointment to them on the post of Khalasi. The O.A. is accordingly disposed of in terms of above mentioned directions. No order as to costs.


Member (A)


Member (J)

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