

Open Court.

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH,
ALLAHABAD

Contempt Petition No. 219 of 2003

IN

ORIGINAL APPLICATION NO.957 OF 2002

ALLAHABAD THIS THE 7th DAY OF April 2005

HON'BLE MR. V.K. MAJOTRA, VICE-CHAIRMAN
HON'BLE MR. A.K. BHATNAGAR, MEMBER-J

1. Hari Har Singh Yadav, Senior Diesel Asstt. N.E.R., Varanasi.
2. Surenda Nath Tiwari, Shunter, N.E.R., Varanasi.
3. Udai Nath, Senior Diesel Asstt. N.E.R., Varanasi.
4. Azimullah, Senior Diesel Asstt., N.E.R., Varanasi.
5. Shahbuddin, Senior Diesel Asstt., N.E.R., Varanasi.
6. Ram Babu, Senior Diesel Assistant, N.E.R., Varanasi.
7. Om Prakash Vishwakarma, Senior Diesel Asstt. N.E.R., Varanasi.
8. Ram Adhar, Senior Diesel Asstt., N.E.R., Varanasi.
9. Anup Kumar Mukherjee, Senior Diesel Assistant, N.E.R., Varanasi.
10. Ramanand Pandey, Shunter, N.E.R., Mau.
11. Jagdish Pandey, Shunter, N.E.R., Chapra.
12. Sanjay Nandan Sen Gupta, Senior Diesel Asstt., N.E.R. Chapra.

.....Petitioners

(By Advocate Shri Rakesh Verma)

V E R S U S

1. Sri Om Prakash, General Manager (P), N.E.R., Gorakhpur.
 2. Sri Naveen Tandon, D.R.M., N.E.R., Varanasi.
-Respondents

(By Advocate: S/Sri A.K. Gaur & K.P. Singh

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O R D E RV.K. MAJOTRA, V.C.

We have heard the learned counsel. We have also perused the records relating to ~~related~~ ^{the h} selection in which applicants had appeared in the year 1999. It is observed from there that the applicants had been declared passed in the Written test in combination with viva voce test.

2. O.A. No. 957 of 2002 was allowed vide order dated 27.3.2003 (Annexure-III) with the following directions to the respondents:

"For the reasons stated above, the O.A. is allowed. The impugned order dated 9.4.2002 is quashed. The respondent no.2 is directed to fix the seniority of the applicants on proforma basis with effect from 6.3.1990 as Fireman Grade-I/Diesel Assistant within a period of three months from the date of communication of this order. The applicants will also be entitled for all consequential benefits including seniority and promotion as per law. No costs."

3. The learned counsel of the applicants accepted that the applicants have been allocated their seniority w.e.f. 6.3.1990 as Fireman Grade-I/Diesel Assistant in terms of the aforesaid directions of the Tribunal. However, he maintained that although the applicants were to be accorded consequential benefits including the promotion, the respondents have deliberately not granted the same to the

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applicants and thereby they have committed contempt of this Court.

4. The learned counsel of the respondents Sri A.K. Gaur pointed out that the respondents have carried ~~out~~ the matter to the Hon'ble High Court through Writ Petition bearing no. 44833 of 2003. The Hon'ble High Court passed the following interim orders:-

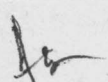
"Issue notice to respondent no.1 and respondent nos 14 to 33. The other respondents are served through Sri S.N. Gupta. Any Promotion or demotion shall be subject to the decision of this Writ Petition."

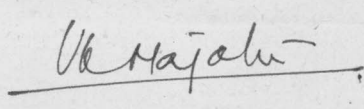
5. The learned counsel Sri A.K. Gaur and also Sri K.P. Singh maintained that the respondents have complied with the order and directions of this Court in respect of the seniority of the applicant subject to the final out come of the Writ Petition vide Annexure SCA-1. They maintained that as the applicants had lower seniority at the relevant time of selection, they could not be accorded promotion. Now, the Tribunal has directed that they can be considered for promotion "as per law". According to them, the applicants shall have to appear in the written test as also the viva voce test for promotion once again now ~~that~~ ^{that} their seniority has been settled. On the other hand, the learned counsel of the applicants maintained that in terms of para 228 of IREM, the applicants' promotion is relatable to

the earlier selection and they cannot be subjected to any fresh test including a fresh viva voce test. Obviously, this is a ^{contentious} ~~separate~~ issue, which can not be settled in the contempt jurisdiction. Furthermore, the matter is also ^{seized} ~~seized~~ by the Hon'ble High Court as the Tribunal's order has been assailed there.

6. In view of the discussions made above, the CCP is disposed of and notices issued to the respondents are hereby discharged. However, the applicants shall have liberty to revive this CCP as and when the Hon'ble High Court's orders are available in the Writ petition.

7. The selection records have been returned to Sri K.P. Singh, learned counsel for the respondents.


MEMBER-J


VICE CHAIRMAN

7.4.05

GIRISH/-