

(Open Court)

CENTRAL ADMINISTRATIVE TRIBUNAL,
ALLAHABAD BENCH, ALLAHABAD

Allahabad this the 02nd Day of May, 2017

HON'BLE MR. JUSTICE PERMOD KOHLI, CHAIRMAN.
HON'BLE MR. O.P.S MALIK, MEMBER (A).

Original Application No. 459 of 2003
(U/S 19, Administrative Tribunal Act, 1985)

Gopal Kishan Soti, Son of Late Shri Srikishan Soti, Resident of Krishnapur Linepar, Moradabad, Presently working as Junior Inspector, Ticket, Northern Railway, Moradabad.

.....Applicant

V E R S U S

1. Union of India through General Manager, Northern Railway, Baroda House, New Delhi.
2. Divisional Railway Manager, Northern Railway, Moradabad.
3. Senior Divisional Personal Officer, Northern Railway, Moradabad.
4. Shri D.C. Goel, Divisional Personnel Officer, Northern Railway, Moradabad.
5. Senior Divisional Commercial Manager, Northern Railway, Moradabad.
6. Sri R.N. Meena, Senior Divisional Commercial Manager, Northern Railway, Moradabad.
7. Surya Kant Garg
8. Jai Pal Singh
9. Ajeet Ram
10. Prahlad Prasad
11. Charan Singh Verma

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12. Siya Ram
13. Tota Ram Gupta
14. Ram Das Mishra
15. Raj Kumar Singh
16. Naveen Kumar Singh
17. Khalil Yar Khan
18. Krishna Kumar
19. Govind Singh
20. Ravindra Kumar Bishnoi
21. Vinod Prakash
22. Akhilesh Kumar Bansal
23. Sushil Kumar Srivastava
24. Sunil Kumar Malik
25. Om Kar Singh
26. Smt. Rekha Devi
27. Abhai Kumar Chaube
28. Kaushal Kishore Gupta
29. Madan Lal
30. Narendra Pal Singh
31. Mehar Singh
32. Bishan Ram Arya
33. Inder Singh Ravi
34. Subhash Chandra
35. Veer Singh

36. Jaswant Singh

All working as Chief Inspector of Tickets,
Under Senior Divisional Commercial Manager,
Northern Railway, Moradabad.

.....Respondents

Advocates for the applicant :- Shri H.C. Shukla
Advocate for the Respondents :- Shri Prashant Mathur

ORDER

DELIVERED BY:-

HON'BLE MR. O.P.S. MALIK (MEMBER-A)

By way of the instant Original Application filed under Section 19 of Administrative Tribunals Act 1985, the applicant has prayed for following main reliefs: -

"A. *issue a writ, order or direction in the nature of certiorari quashing the panel dated 3.2.2003 passed by the respondent no. 3;*

B. *issue a writ, order or direction in the nature of mandamus commanding the respondents to hold fresh viva voce examination in pursuance to notification dated 1.1.2003 and conduct the same as per provisions contained in para 219 of IREM, after correcting the seniority list of the petitioner."*

2. Shorn of unnecessary details, brief facts of the case, as revealed by the applicant, are that the applicant is working as Junior Inspector Tickets (in brief JIT) in Northern Railway. He rose from the ranks after his initial appointment as Ticket Collector on 16.06.1986. In the seniority list of JIT issued on 02.08.2001, his name appeared at Sl. No. 79 against which he made a representation for assigning him correct seniority.

3. On 01.01.2003, a Notification was issued for selection of 34 posts of Chief Inspector Tickets (in short CIT). The applicant's name appears at Sl. No. 66 in the list of eligible candidates. Since the list of eligible candidates was not properly prepared, the applicant made a representation on 03.01.2003 for its correction (Annexure -9). Annoyed at his representation, the respondent no. 3 instead of correcting the list of eligible candidates debarred the applicant from appearing in the said selection vide order dated 13.01.2003 (Annexure -10). Against this order, the applicant filed O.A No. 38/2003 wherein this Tribunal, vide order dated 17.01.2003, directed the respondents to permit the applicant to appear in written test. According to the result published vide letter dated 27.01.2003, the name of the applicant appears at Sl. 58. It is stated that in this result, the names were not arranged in the order of seniority. Hence, the applicant requested the respondents vide his Letter dated 29.01.2003 to correct his seniority. It is alleged that on 30.01.2003, the applicant was threatened by the respondent nos. 3, 4 and 6 and pressurized to withdraw the O.A on which he had sought an interview with respondent no. 2 informing him of the incident and requesting for changing the Selection Committee. On 03.02.2003, a panel of only 30 persons was declared in which his name did not figure (Annexure A-16). The applicant's allegation is that viva

voce test was conducted in a malafide manner and it did not take into account various aspects of the personality and other achievements of the applicant. It is further stated that in the selection, 15 marks are fixed for seniority, as provided in para 219 of Indian Railway Establishment Manual and unless the applicant's seniority is corrected, he will not be able to get proper marks. Finally, it is argued that the viva voce test held in pursuance to Notification dated 01.01.2003 is arbitrary and, hence, the panel dated 03.02.2003 is liable to be quashed.

4. Per contra, the respondents have filed counter reply stating that the applicant's name figured at Sl. 66 in the list prepared for selection process vide Letter dated 01.01.2003. In pursuance of the directions of this Tribunal in O.A No. 38/2001, the applicant was included in the aforesaid selection, who appeared in the written test and was declared pass. His name figured in the said list at Sl. No. 58 but he could not be placed in the panel on account of low merit of seniority. It is submitted that the applicant's allegation that certain persons are junior to him is not correct; specifically, one Shri Raj Kumar Gupta was promoted as JIT, Moradabad on 07.08.1998 and was given the benefit of seniority from the date of training at ZTC, Chandausi on 07.10.1997. It has also been submitted that none of the representations dated 29.01.2003 and 03.02.2003 have been

received in the office of respondents. The allegations against respondent nos. 4, 5 and 6 have also been denied. It is argued that the Selection Committee is only concerned with awarding marks to the candidates according to the seniority list put up before it for selection; it is not for the Selection Committee to observe correctness of the seniority list.

5. Heard Shri H.C. Shukla, learned counsel for the applicant and Shri Prashant Mathur, learned counsel for respondents and perused the records.

6. Learned counsel for the applicant has vehemently argued that in the seniority list issued with the Notification dated 01.01.2003, two employees namely Shri Raj Kumar Gupta shown at Sl. No. 33 and Shri Kifayat Ullah at Sl. No. 65 are, in fact, junior to the applicant but they were shown as seniors. The applicant raised objections to this vide representation dated 03.01.2003. This representation was not decided by the respondents. Learned counsel, however, admitted that the applicant did not approach any Court for redressal of his grievance against the inaction of the respondents.

7. Learned counsel for respondents contends that the two employees namely Shri R.K. Gupta and Shri Kifayat Ullah were

senior to the applicant. He further argued that the seniority list has also not been challenged and, in case, the applicant had any grievance against the seniority list, he could have approached a Court of law. Learned counsel also submits that the panel declared vide letter dated 03.02.2003 has already been given effect to and long time has since elapsed.

8. From rival contentions, it emerges that the applicant is aggrieved by improper fixation of his seniority. It is true that after the Notification dated 01.01.2003, the applicant had submitted a representation dated 03.01.2003 to the Divisional Railway Manager, Northern Railway, Moradabad for proper fixation of seniority of JIT. In his representation dated 03.01.2003, he has mentioned the cases of Shri R.K. Gupta (Sl. No.33) and Shri Kifayat Ullah (Sl. 65) detailing how they were junior to him and requesting for correct fixation of his seniority at Sl. No. 33. It has been stated by the applicant that this representation was never decided by the respondents and his grievance was not redressed. It is true that per para 219 of Indian Railway Establishment Manual, seniority is a parameter for awarding marks in selection process. However, it is clear that the applicant has not challenged the JIT seniority list per se. According to the respondents, the panel dated 03.02.2003


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has been given effect to and a long time has passed since the declaration of the panel which has attained finality.

9. Having regard to the facts and circumstances of the case, we are of the considered opinion that the applicant has not been able to establish his case. If the applicant had a grievance by the inaction of the respondents regarding his seniority, he should have challenged the Seniority List of his cadre, which he has not done. The prayer for quashing of the panel dated 03.02.2003 is also untenable as this panel has been operational for a long period. Hence, the O.A deserves to be dismissed.

10. Accordingly, the O.A is dismissed.

11. No costs.


(O.P.S. MALIK)
MEMBER-A

Anand...


(JUSTICE PERMOD KOHLI)
CHAIRMAN