

Open Court

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH  
ALLAHABAD

Original Application No.908 of 2003

Allahabad this the 26th day of May, 2004

Hon'ble Mr.Justice S.R. Singh, Vice Chairman  
Hon'ble Mr.S.K. Hajra, Member (A)

Haridas aged about 40 years, Son of Shri Khare, resident of Satyam Colony, near Bhrama Kumari Ashram, Outside Baragaon Gate, Jhansi.

By Advocate Shri R.K. Nigam

Applicant

Versus

1. Union of India through General Manager, Central Railway, Mumbai CST.
2. General Manager, North Central Railway, Allahabad.
3. Chief Personnel Officer, Central Railway, Mumbai CST.
4. Chief Workshop Manager, North Central Railway, Jhansi.

Respondents

By Advocate Shri K.P. Singh

O R D E R ( Oral )

By Hon'ble Mr.Justice S.R. Singh, V.C.

This O.A. seeks issuance of writ, order and direction quashing the impugned order dated 05.07.2003 (annexure A-1) coupled with direction to the respondents to reinstate the petitioner as Apprentice Mechanic/Chargeman/Junior Engineer with retrospective effect with all consequential benefits.

2. The facts giving rise to this O.A. stated briefly

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are that the applicant along with other candidates was recommended for giving appointment as Apprentice Mechanic(Diploma Holder) by Railway Service Commission Bombay <sup>know</sup> ~~no~~ Railway Recruitment Board, subject to he is being found otherwise suitable and accordingly the Chief Personnel Officer vide letter dated 05.12.1984 send application of the applicant along with others with instruction to give necessary training of the post to which candidates were recommended for appointment subject to verification of character and antecedents from the competent authority. At the time of character verification, it was revealed by the District Magistrate, Jhansi that the applicant was accused in a criminal case under Section 302 I.P.C. and sentenced to life imprisonment by Sessions Judge, Jhansi. In this view of the matter, the applicant could not be sent for necessary training in Principal System Training School, Jhansi and his application along with other documents was returned to the Chief Personnel Officer, C.S.T. Mumbai. By letter dated 06.06.1985 the applicant was informed that from the character verification report given by the District Magistrate, Jhansi, in which it was observed that he had been sentenced to the life imprisonment by the Sessions Judge, Jhansi and his appeal was pending in the High Court and therefore, after careful consideration 'it has been decided that you cannot be engaged in the railway service unless acquitted by the High Court, Allahabad! It appears that the applicant was acquitted vide Judgment and Order dated 02.11.1989 passed by the Hon'ble High Court. Thereafter, applicant preferred representation, which was forwarded to the Chief Personnel Officer, Mumbai for necessary action vide letter dated 22.12.1989. The representation was

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considered by the competent authority. On having regard to the facts and circumstances, it was found that his character and antecedents were not such as to entitle him for appointment in the railways. On receipt of the order from the Chief Personnel Officer(M) vide letter dated 26.03.1990 the applicant was advised suitably vide letter dated 16.04.1990. The order contained in the letter dated 17.04.1990 was challenged in the O.A.No.1385/90 before the Principal Bench of Central Administrative Tribunal, New Delhi. The said O.A. was dismissed vide order dated 26.08.94 and review petition too was dismissed on 17.11.1994 holding that after given consideration to the applicant's case, the respondents, having regard to the applicant's character and antecedents have concluded that the applicant is not a fit person to be granted public employment. It could not be said that the applicant had been discriminated against by the respondents or that they had acted arbitrarily or in violation of Article 14 and 16 of the Constitution. The applicant, it appears, had also preferred the writ petition(civil) no.542/2002 Hari Dass Vs. Union of India & Ors. ~~before~~ before the Hon'ble Supreme Court of India, which at the stage of preliminary hearing came to be dismissed vide order dated 06.01.2003. The order reads as under:-

"Heard the learned senior counsel for the petitioner. We see no merit in this petition. It is accordingly, dismissed.

It is submitted by the learned senior counsel for the petitioner that the petitioner is acquitted of the charges framed against him and thereafter he has sought his re-instatement in service and as there is no criminal complaint pending against him, the representation already made by him for re-instatement

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in service may be considered and dealt with in accordance with law at the earliest. If any representation is pending with the Railway, it may be disposed of in accordance with law."

3. Acting on the direction given by the Hon'ble Supreme Court, applicant's representation dated 13.02.2001 was considered by the competent authority. On careful consideration of the representation dated 13.02.2001 read with representation dated 10.03.2003, the competent authority found that "as there was no valid appointment in this case as such it would not binding on the railway administration ~~not~~ to give you appointment at this stage. Moreover, the panel framed for the post of Apprentice Mechanic(DH) was current only for the period of one year." Aggrieved, the applicant has now filed the present O.A.

4. Having heard the counsel for the parties and upon regard being on facts and circumstances of the case disclosed herein above, we are of the view that the applicant is not entitled to the reliefs.

5. The Supreme Court decision in Commissioner of Police, Delhi and another Vs. Dhaval Singh(1999) 1 S.C.C. 246 relied on by the learned counsel appearing for the applicant has no application to the facts of the present case.

6. It cannot be ~~game~~ <sup>in said that</sup> set since the applicant was ~~never~~ appointed and ~~and~~ he was only placed in the panel term of which has expired, question of issuance of a direction to the respondents to reinstate the applicant as Apprentice Mechanic/Chargeman/Junior Engineer does not arise.

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7. In view of the above discussion, the O.A.  
fails and dismissed accordingly. No order as to costs.

*Samrup Kumar Ray*  
Member (A)

*(R.K.J)*  
Vice Chairman

/M.M./