

Reserved

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH ALLAHABAD

(THIS THE 27 DAY OF APRIL, 2011)

Hon'ble Dr.K.B.S. Rajan, Member (J)
Hon'ble Mr. D. C. Lakha, Member (A)

Original Application No.670 of 2006
(U/S 19, Administrative Tribunal Act, 1985)

Man Mohan Pandey, S/o Late Ram Dulare Pandey, Resident of 230/2-B, New Mehdauri, Allahabad, Working as Divisional Personnel Inspector, Railway Manager's Office, Northern Railway Allahabad Division. .

..... Applicant

By Advocates: Shri V. Budhwar
Shri A. Tripathi

Versus

1. Union of India, through the General Manager, North Central Railway, Allahabad.
2. The Divisional Railway Manager, North Central Railway, Allahabad.
3. The Divisional Personnel Officer in the office of Regional Manger, North Central Railway, Allahabad.
4. S.C. Banerjee, Retd. D.P.O.
5. Raj Nath Ojha, Chief Personnel Inspector D.R.M. Office, North Central Railway, Allahabad.

18

6. Sachendra Kumar Mishra, Chief Personnel Inspector, in the office of General Manager, North Central Railway, Allahabad.

..... Respondents

By Advocates: Shri P.N. Rai
Shri S.K. Chaturvedi

ORDER

(Delivered By Hon. Dr. K.B.S. Rajan, Member-J)

1. OA No. 615 of 1994 was earlier filed by the applicant para 2 of which gives the facts of the case as per the applicant and the same is as under:-

"Briefly, the facts of the case as per applicant are that there are two cadres of inspectors in personnel Branch of Northern Railway namely WLI and personnel Inspector (in short PI). Both these cadres have been merged in 1985 as per Railway Board's direction, but it has not been done in Northern Railway. Selection was initiated to fill 3 vacancies of WLI grade Rs.1400-2300 vide notice dated 5.10.1991. The result of written examination was declared on 21.01.1992. In the meanwhile the selection of PI of 1992 calendar was also initiated without pronouncing any calendar programme. As there was procedural flaw in this selection of PI, Divisional Personnel Officer (in short DPO), who is also the Chairman of selection committee, postponed the selection of PI and decided to finalise the selection of WLI first. The DPO Proceeded on 45 days leave and Assistant Personnel Officer as officiating DPO, initiated the selection of both the cadres namely WLI and PI with an idea to complete that during the leave period of regular DPO, the applicant appeared in both the selection and qualified the written examinations of both. The viva voce test of both the selection was held on 16.01.1992. Two separate panels, one of WLI and other of PI were declared on 23.01.1992. The junior persons to the applicant were placed on the panel of WLI and the applicant along with his senior was placed on the panel of

PI. Since the future prospects in the cadre of WLI are better, the applicant felt aggrieved and has challenged the selection. ”

2. The Tribunal in that case dealt with the case of the applicant as under:-

“7. The main issue involved in this OA is whether the selection process adopted by the respondents in preparing the panels of WLI and PI is fair, just and as per rules or not. In order to arrive at the correct conclusion, we have perused the records of selection of both the cadres i.e. WLI & PI cadre, place before use by the respondents. The apprehension of the applicant that there was a common viva voce test for both the cadres and the selection committee was the same, is not borne on facts, From the records we find that there are 2 separate sheets of the proceedings of the selection one for WLI cadre and the other for PI cadre, the marks of viva voce have been awarded separately to the applicant for both selection and the applicant has not been able to make the grade to put on the panel of WLI. The member who have signed these sheets are different except the DPO who is common being a member from personnel Branch as per extant rules. It is, therefore, amply clear that there were two different selection committee for the cadres of WLI and PI. There is no irregularity in the result prepared for the panel of WLI and PI. Hence, we do not agree with the arguments of the applicant that the respondents had decided in advance to place the junior candidates on the panel of WLI. The respondents rightfully permitted only eligible candidates to appear in the written test and viva voce and the argument of the applicant that they are junior to him, has no legs to stand. The applicant also stated that he was promoted as WLI on 24.01.1992. Obviously respondents could not have promoted the applicant as PI before 1.2.1992 for want of vacancy grievance that his juniors were promoted as WLI on 24.01.1992 because only those persons were promoted as WLI who were on the panel of WLI after due process of selection We reject the applicant's contention in this regards as he has no reason to compare his date of promotion with the date of promotion of others who are on different panel altogether. The selection for both the cadres i.e. WLI & PI has been conducted

in just, impartial and fair manner as per the rules. Therefore, the applicant cannot claim right to be placed on the panel of WLI as he has not been found suitable for the same by the selection committee. "

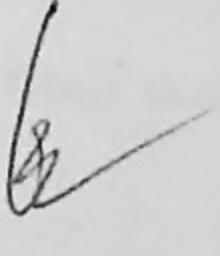
3. An unsuccessful attempt was made by the applicant by moving the matter before the high Court in Writ petition 2909 of 02 which was dismissed on account of non impleadment of necessary party. Review against the same has also been dismissed.

4. The applicant has now filed this OA impleading the necessary party, i.e. Respondents No. 5 and 6.

5. In this O.A. the applicant has prayed for the following relief :-

(i) *To issue a mandamus directing the respondents to consider the candidature of the applicant to grant promotion on the post of Labour Welfare inspector from the date junior have been granted promotion.*

(ii) *To issue a mandamus directing the respondents to consider the candidature of the applicant for the purpose of recruitment on the post of Labour Inspector and to grant him further selection on the post of Sr. Welfare Inspector in the Grade 1600-2600 and further on the post of Chief Welfare Inspector.*


(iii) *To issue a mandamus commanding the respondents to grant him consequential benefit including seniority as well as other benefit for which the applicant is entitled*

for 24% interest per annum from the date junior to have been granted.

(iv) To issue any other order or direction as the Hon. Tribunal may deem fit and proper in the circumstances of the case.

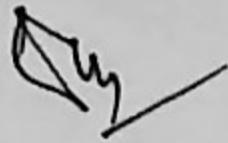
(v) To award costs throughout for the applicant.

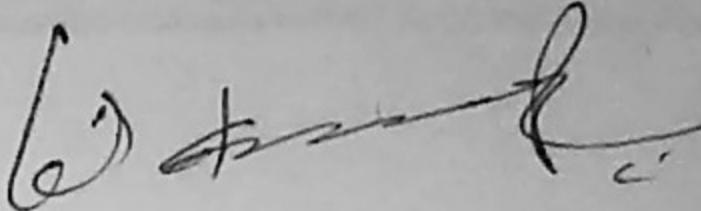
6. Respondents have contested the O.A. According to them the OA is not maintainable due to the fact that earlier OA No. 614 of 1994 attained finality and this is only a duplicate case and hence, is liable to be dismissed with cost.

7. Arguments were heard. In the instant O.A. the applicant has again contended that there was a common interview on 16-01-92. This aspect had been considered in the earlier judgment and it was held that the contention of the applicant was not borne on facts which were ascertained by verifying the records.

8. We are fully satisfied with the decision arrived at by this Tribunal in the above OA. No. 615 of 1994. The case is also barred by res-judicata. Respondents have also contended as such, vide para 2 of their counter.

9. The applicant has filed an application for condonation of delay in filing the O.A. As the OA is barred by res-judicata, there is no point in condoning the delay. Hence, both on the basis of limitation as well as on the ground of res-judicata, the OA is dismissed.


(D.C. Lakha)
Member-A


(Dr. K.B.S. Rajan)
Member-J

Sushil