

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH
ALLAHABAD

ORIGINAL APPLICATION NO. 756 OF 2006.

ALLAHABAD THIS THE 01st DAY OF APRIL 2009.

HON'BLE MR. A.K. GAUR, MEMBER (J)
HON'BLE MRS. MANJULIKTA GAUTAM (A)

1. K.M Tripathi S/o V.D. Tripathi, aged about 47 years, R/o Village & Post Tanda, District Gorakhpur.
2. Manoj Kumar Kar S/o K.N Kar, aged 36 years, R/o 559-D, Bichhiya Railway Colony, District Gorakhpur.
3. Gorakh Nath Gupta S/o R.C. Gupta, aged 40 years, R/o Khajanchi Chaurah, Fatima Hospital Road, Gorakhpur.
4. Yogesh Kumar S/o late P.N Yadav, aged 34 years R/o Keshav Puram, Gorakhnath, District Gorakhpur.
5. Nikeshwar Yadav S/o late Bechan Prasad, aged 33 years, R/o Vill: Banaura, Post Amtaura, District Gorakhpur.
6. Ram Nath Gupta S/o late Sadabrichh, aged 33 years R/o Vill Satrughan pur, Post Futhava Inar, District Gorakhpur.
7. Ashok Kumar Srivastava S/o late B.L. Srivastava aged 46 years, R/o Below Railway Crossing, Gorakhnath Road, District Gorakhpur.
8. Ravindra Kumar Sharma S/o J.P. Sharma, aged 36 years R/o Vishnu Nagar, Basarapatpur, District Gorakhpur.
9. Rajesh Kumar Srivastava s/o late B.N Srivastava, aged 45 years, R/o Machis Factory, Railway Colony, Qt. No. 623-B, Cantt Gorakhpur.

.....Applicants.

By Advocate: Shri O.P Gupta.

Versus.

1. Union of India through General Manager, North Eastern Railway, Gorakhpur.
2. General Manager, North Eastern Railway, Gorakhpur.
3. General Manager (Personal), North Eastern Railway, Gorakhpur.
4. Chief Commercial Manager, North Eastern Railway, Gorakhpur.
5. Area Manager, Gorakhpur Railway Station, Gorakhpur.

.....Respondents

By Advocate: Shri Ravi Ranjan.

ORDER

By MR. A.K. GAUR, MEMBER (J)

Heard Shri O.P. Gupta, Advocate appearing on behalf of the applicant and Shri Ravi Ranjan, Advocate appearing on behalf of the respondents.

2. By means of this O.A., Applicant has claimed following relief(s):-

"In view of the facts and grounds mentioned above, applicant prays before the Hon'ble Court to quash the impugned office order of CCM Gorakhpur dated 14.6.2006 (Annexure No. 10) and respondents may further be directed to send to the applicants, immediately, for the necessary training, referred above, and applicants may be regularized as Ticket Collector (Commercial Staff) from the same very date from which surplus staff already sent for training, as per order dated 21.6.2006, were regularly absorbed.

Respondents may also be directed to grant all consequential benefits including seniority on the concerned post to the applicants.

Any other order or direction to which this Court may deem fit and proper in the facts and circumstances of the present case may also be passed".

3. The Applicants have challenged both the orders annexed at page 8 and 8A (Annexure A-10 and A-12) of the OA. It has been contended by the applicants that vide order dated 30.1.2006 Railway Administration had taken a decision to absorb the surplus staff of the clerical cadre working in different offices of the Railways, as Commercial (Station) staff, such as Inquiry cum Reservation Clerk, Commercial Clerk and Ticket Collectors. Vide letter dated 10.2.2006 option for the absorption was asked for by the respondents from the aforesaid surplus clerical staff. The case of the applicants is that along with the surplus staff the applicants who were not even declared surplus by that time, also submitted their options for regular absorption in the Commercial cadre. Vide order dated 20.2.2006, it was also decided by the respondents that non-surplus staff who have submitted their options, may be sent for the screening test alongwith surplus staff. A list

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of non-surplus staff, who submitted their options was published. Screening test was held on 21.2.2006 and 23.2.2006.

4. Being non-surplus staff the applicants were permitted to give their option and declared successful in the screening along with surplus staff. A panel was formed and published by the respondents on 17.3.2006 with the approval of the Competent Authority. Thereafter the applicants and other selected candidates were directed to report for required medical examination for the post for which they were found selected.

5. It has been contended on behalf of the applicants that since under the relevant Rules, there is a provision for 45 days training for a newly appointed Ticket Collector for making him eligible for regular absorption on the post, but the Applicants were not sent for the said training. The CCM Gorakhpur, also issued an office order dated 14.6.2006, that only surplus staff will be sent for the said training. The grievance of the applicants is that being the non-surplus staff, they were not being sent for training and for the regular absorption. Applicants have already been reverted to their substantive post.

6. In the counter reply filed by the respondents, it is specifically mentioned that vide order dated 30.01.2006 (Annexure A-1), respondents have decided that the surplus staff of the clerical cadre in different offices of Railways were to be absorbed on the post of Commercial Department, as Enquiry-cum-Reservation Clerk, Commercial Clerk and Ticket Collectors and accordingly, options were invited from the surplus staff. It was made clear that after submission of their options, they will be screened and if found suitable and medically fit they will be

absorbed. It is noted that the clerical staff, whose names were not mentioned in the list of surplus staff also filled the option form and therefore, vide order dated 20.02.2006, these non-surplus staff opted for absorption, were also sent for screening so that Railway Administration may consider their option for absorption as per administrative requirement.

7. In para 10 of the Counter Reply, respondents have clearly stated that as per Railway Board's existing instructions, the posting on the aforesaid posts could be done only after successful completion of prescribed training, none of the applicants are trained as Ticket Collector and have not completed training and this fact is very much evident from the order dated 27.3.2006. Copy of said letter dated 27.3.2006 has also been annexed as Annexure CA-1 to the counter. Respondents also submitted that as per Railway Board's existing instructions, the posting on a particular post is done only after successful completion of prescribed training. As per policy of the Railway Board, only those persons who were declared surplus and had already undergone Training of 45 days at Regional Training Institute, Muzaffarpur and found medically fit, could only be considered for regularization. The applicants who are not the surplus staff could not be deputed for training. According to the respondents, the applicants have no right to hold the post and they have rightly been reverted to their substantive post of Clerk.

8. We have heard Shri O.P Gupta, learned counsel for the applicant and Shri Ravi Ranjan, learned counsel for the respondents.

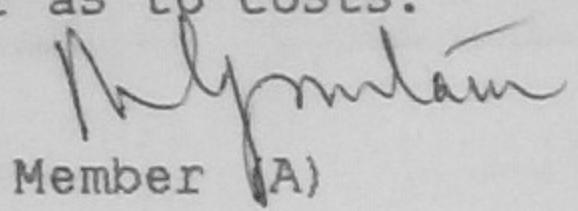
9. From the perusal of record, it is amply clear that the applicants have no right to hold the post.

It has been argued by Shri O.P. Gupta, learned counsel for the applicants that order passed by CCM, Gorakhpur is wholly illegal, arbitrary and without jurisdiction. Applicants have submitted their options and were permitted to appear in the screening test. After being declared successful, there is hardly any justification for reverting them to their substantive post of Clerk.

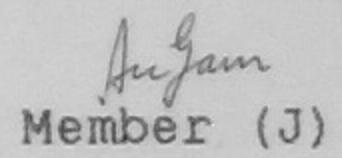
10. Learned counsel for the respondents, on the other hand, submitted that Chief Commercial Manager, North Eastern Railway, Gorakhpur is the Competent Authority to take action in accordance with provision of Rules as well as under the policy. A policy decision has already been taken by the Competent Authority that only surplus staff could be considered for the post in question and the applicants who were not rendered surplus, were not entitled to be sent for training for 45 days. In order to rectify the administration error the Applicants have rightly been reverted to their substantive post and no opportunity of hearing was required to be given to them.

11. We have heard parties counsel at length and it is seen from the record that vide letters dated 30.1.2006 and 20.2.2006, it was made clear that absorption of surplus staff and non-surplus staff screened and found suitable will be made as per administrative requirement. After passing the impugned order dated 14.6.2006 in reference to letter dated 03.05.2006, it was decided by the Competent Authority that as per policy decision only surplus staff was required to be sent for training. In this background the order dated 3.8.2006 has been passed and the applicants were reverted back to their substantive post of Clerk. In our considered view the Chief Commercial Manager, N.E. Railway, Gorakhpur has rightly taken a decision to revert all

the applicants who were not declared as surplus staff. Under the policy decision of the department, only surplus staff were to be screened and required to undergo Training of 45 days at R.T.I, Muzaffarpur. In the facts and circumstances of the case, the option form filled by the applicants was wholly unwarranted. We are satisfied that the order of reversion of the applicants to their substantive post of Clerk has rightly been passed by the Competent Authority. We find no illegality in the impugned order. O.A. is accordingly dismissed. No order as to costs.



Member (A)



Member (J)

Manish/-