

દાખલે કે અર્દ્દ અર્દ્દ નિઃ દુલ્ક પ્રભિ
દાખલે (મનીલ) નિઃ અર્દ્દ અર્દ્દ નિઃ દુલ્ક પ્રભિ
CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR

Original Applications No.175/2012, 226/2012 & 287/2013

Jodhpur this the 22nd day of November, 2013

CORAM

Hon'ble Mr. Justice Kailash Chandra Joshi, Member (J),
Hon'ble Ms. Meenakshi Hooja, Member (A)

I. OA No.175/2012

Om Prakash Choudhary S/o Shri Laxman Ram Choudhary, aged about 37 years, R/o A-25 Narsingh Vihar, Lalsagar, Jodhpur. Presently working on the post of Tech.-II in the office of Carriage Workshop North Western Railway, Jodhpur.

.....Applicant

Mr. S.K. Malik, counsel for applicant.

Versus

- (1) Union of India through the General Manager, North Western Railway, Jaipur.
- (2) Chief Workshop Manager, North Western Railway, Carriage workshop, Jodhpur.
- (3) The Senior Personnel Officer, North Western Railway, Carriage Workshop, Jodhpur.
- (4) Sh. Shiv Prasad Purohit, Tech.-II, T.No.11087 Shop No.8, Carriage Workshop, North Western Railway, Jodhpur.
- (5) Sh. Sunil Kumar Tak, Tech.-III, T.No.11004 Shop No.11 Carriage Workshop, North Western Railway, Jodhpur.
- (6) Sh. Bhoma Ram Meena, Tech.-II T.No.11557 Shop No.8 Carriage Workshop, North Western Railway, Jodhpur.
- (7) Sh. Ugam Singh Sodha, Tech.-I, T.No.11446 Shop No.14 Carriage Workshop, North Western Railway, Jodhpur.
- (8) Sh. Rajneesh Kumar, Tech.-I, T.No.10417, Shop No.11, Carriage Workshop, North Western Railway, Jodhpur.
- (9) Sh. Subhash Kumar Yadav, Tech.-II, T.No.11387, Shop No.12, Carriage Workshop, North Western Railway, Jodhpur.
- (10) Sh. Ravi Prakash Tech.-II, T.No.10419, Shop No.18 Carriage Workshop, North Western Railway, Jodhpur.
- (11) Sh. Hari Singh, Tech.-II, T.No.11467, Shop No.12, Carriage Workshop, North Western Railway, Jodhpur.
- (12) Sh. Ganga Ram Tech.-II T.No.11010 Shop No.14 Carriage Workshop, North Western Railway, Jodhpur.
- (13) Sh. Raj Kumar Meena (ST) Tech.-II, T.No.11436, Shop No.18, Carriage Workshop, North Western Railway, Jodhpur.
- (14) Sh. Naresh Kumar Chouhan (SC) Tech.-II, T.No.10529m Shop No.18, Carriage Workshop, North Western Railway, Jodhpur.
- (15) Sh. Sharwan Kumar Mohanpuriya (SC) Tech.-II, T.No.11466, Shop No.01 Carriage Workshop, North Western Railway, Jodhpur.

.....Respondents

Mr. Salil Trivedi, present, for respondents No.1to3.

Mr. Kuldeep Mathur, for respondents No.4to10 & 13to15.

Mr. Sanjay Kapoor, present, for respondent No.11.

Mr. Harish Purhoit, present, for respondent No.12.



2. OA No.226/2012

Pradeep Makad S/o Shri Mohan Lal, aged 44 years, R/o Mitra Sargam, Kila ki Sarak, Bagar Chowk, Jodhpur (Raj.).

.....Applicant

Mr. Kailash Jangid, counsel for applicant.

Versus

- (1) The Union of India through the General Manager, North Western Railway, Jaipur.
- (2) The Chief Workshop Manager, North Western Railway, Carriage workshop, Jodhpur.
- (3) The Senior Personnel Officer, North Western Railway, Carriage Workshop, Jodhpur.
- (4) Sh. Shri Prasad Purohit, Tech.-II, T.No.11087 Shop No.8, Carriage Workshop, North Western Railway, Jodhpur.
- (5) Sh. Sunil Kumar Tak, Tech.-III, T.No.11004 Shop No.11 Carriage Workshop, North Western Railway, Jodhpur.
- (6) Sh. Bhoma Ram Meena, Tech.-II T.No.11557 Shop No.8 Carriage Workshop, North Western Railway, Jodhpur.
- (7) Sh. Ugam Singh Sodha, Tech.-I, T.No.11446 Shop No.14 Carriage Workshop, North Western Railway, Jodhpur.
- (8) Sh. Rajneesh Kumar, Tech.-I, T.No.10417, Shop No.11, Carriage Workshop, North Western Railway, Jodhpur.
- (9) Sh. Subhash Kumar Yadav, Tech.-II, T.No.11387, Shop No.12, Carriage Workshop, North Western Railway, Jodhpur.
- (10) Sh. Ravi Prakash Tech.-II, T.No.10419, Shop No.18 Carriage Workshop, North Western Railway, Jodhpur.
- (11) Sh. Hari Singh, Tech.-II, T.No.11467, Shop No.12, Carriage Workshop, North Western Railway, Jodhpur.
- (12) Sh. Ganga Ram Tech.-II T.No.11010 Shop No.14 Carriage Workshop, North Western Railway, Jodhpur.
- (13) Sh. Raj Kumar Meena (ST) Tech.-II, T.No.11436, Shop No.18, Carriage Workshop, North Western Railway, Jodhpur.
- (14) Sh. Naresh Kumar Chouhan (SC) Tech.-II, T.No.10529m Shop No.18, Carriage Workshop, North Western Railway, Jodhpur.
- (15) Sh. Sharwan Kumar Mohanpuriya (SC) Tech.-II, T.No.11466, Shop No.01 Carriage Workshop, North Western Railway, Jodhpur.

.....Respondents

Mr. Salil Trivedi, present, for respondents No.1to3.

Mr. Kuldeep Mathur, for respondents No.4to10 & 13to15.

Mr. Sanjay Kapoor, present, for respondent No.11.

Mr. Harish Purohit, present, for respondent No.12.

3. OA No.287/2013

Ugam Singh Sodha, Tech-II, T.No.10446, Shop No.14, Carriage Workshop, North Western Railway, Jodhpur.

.....Applicant

Mr. Mahesh Joshi & Girish Joshi, counsel for applicant.

Versus

- (1) Union of India through the General Manager, North Western Railway, Jaipur.

- (2) Chief Workshop Manager, North Western Railway, Carriage workshop, Jodhpur.
- (3) The Senior Personnel Officer, North Western Railway, Carriage Workshop, Jodhpur.
- (4) Sh. Shiv Prasad Purohit, Tech.-II, T.No.11087 Shop No.8, Carriage Workshop, North Western Railway, Jodhpur.
- (5) Sh. Sunil Kumar Tak, Tech.-II, T.No.11004 Shop No.11 Carriage Workshop, North Western Railway, Jodhpur.
- (6) Sh. Bhoma Ram Meena, Tech.-II T.No.11557 Shop No.8 Carriage Workshop, North Western Railway, Jodhpur.
- (7) Subhash Kumar Yadav, Tech.-II, T.No.11387, Shop No.12, Carriage Workshop, North Western Railway, Jodhpur.
- (8) Raj Kumar Meena (ST) Tech.-II, T.No.11436, Shop No.18; Carriage Workshop, North Western Railway, Jodhpur.
- (9) Hari Singh, Tech.II, Ticket No.11467, Shop No.12, Railway Workshop, Jodhpur.
- (10) Ganga Ram Tech.-II, Ticket No.11010, Shop No.14, Railway Workshop, Jodhpur.

.....Respondents

Mr. Salil Trivedi, present, for respondents No.1to3.

Mr. R.S. Saluja, present, for respondent No.4.

Mr. Sanjay Kapoor, present, for respondent No.9.

Mr. Harish Purohit, present, for respondent No.10.

None present for other respondents.

ORDER (Oral)

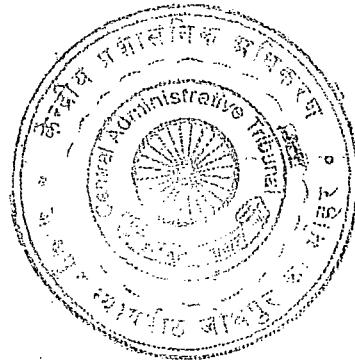
Per Justice K.C. Joshi, Member (J)

By this common order, we are going to decide three original applications bearing OA No.175/2012, 226/2012 and 287/2013 because the common question involved in all the OAs is regarding the promotion/ selection to be made for the post of Junior Electrician Mechanical against 25% in intermediate apprentice quota in PB-2, Rs.9300-34800 Grade Pay of Rs.4200 in pursuance to notification dated 12.07.2011 (Annexure-A/2). Applicant, Om Prakash, in OA No.175/2012 has challenged the legality of the process of the written examination as well as the further process of allotting the marks by paper screening and applicant, Pradeep Makad, in OA No.226/2012 has challenged the legality of the process of written examination as well as further evaluating of allotment of marks by paper screening. In OA No.175/2012, the applicant, Om Prakash, has challenged the legality of the order of



Annexure-A/1 (panel dated 09.03.2012), Annexure-A/1-a (reason for rejection of his name in the panel), and Annexure-A/1-b (revised panel dated 20.09.2013), and in OA No.226/2012, the applicant, Pradeep Makad has also challenged the legality of the order of Annexure-A/1 (panel dated 09.03.2012), Annexure-A/1-a (reason for rejection his name in the panel) and Annexure-A/1-b (revised panel dated 20.09.2013). The applicant, Ugam Singh Sodha, in OA No.287/2013 has challenged the legality of the revised panel dated 20.09.2013 of Junior Engineer Mechanical against 25% quota prepared after declaring the revised written test result dated 20.09.2013 as per revised key.

2. For deciding the OA No.175/2012 and OA No.226/2012, we are taking the facts of the case of Om Prakash Choudhary i.e. OA No.175/2012. The applicant, Om Prakash, was initially appointed through selection on the post of Khallasi w.e.f. 08.03.1999 and subsequently, he was promoted after trade test on the post of Technician grade III w.e.f. 31.03.2006, and was lastly promoted on the post of Technician Grade II w.e.f. 25.10.2008. It has been averred in the OA that during his career he has an excellent record of service as he has been granted cash award and appreciation letters for rendering good services. The respondents notified 10 vacancies of Junior Engineer Mechanical against 25% in intermediate apprentice quota vide notification dated 12.07.2011 (Annexure-A/2). Since the applicant was fulfilling all the conditions, he applied for the same. The respondents have issued eligibility list vide letter dated 10.01.2012 and in which the name of



the applicant, Om Prakash and Pradeep Makad were there. Thereafter, the respondents have conducted the written examination on 26.02.2012 and published the result of the written examination vide letter dated 01.03.2012 where Shri Om Prakash and Shri Pradeep Makad passed in the written examination and they were found eligible for paper screening. On 09.03.2012 (Annexure-A/1), a panel was issued by the respondent department, and the legality of the same has been challenged on the ground that it is arbitrary and illegal. It has been further averred that the applicants Om Prakash and Pradeep Makad were meritorious compared to the other persons but they could not find place in the panel. The applicant Om Parkash secured 66 marks in the written examination whereas the applicant, Pradeep Makad, has secured 71 marks. The panels has been prepared on the basis of working reports, which have been prepared on 08.03.2013 for three years clubbed together, after declaring the result of written test and thus the respondent department favoured some of the candidates for selection by awarding higher marks on the basis of the special report/working report called for from the department. It has been further averred in OA that the CR/Working report of respondents No.4,5,6 and 9 in the OA have been prepared for three years during the selection process showing them to be excellent and this is clearly arbitrary and malafide exercise of power by the respondents just to declare them pass in the paper screening, and all this has been done though it is not permissible under the law. It has been further averred that some of the private respondents have been awarded penalties after



charge sheets and despite that they have selected. Therefore, the entire selection process is nothing but mockery in the eye of law and the same is illegal and deserves to be quashed and set aside. Therefore, the applicant, Om Prakash, in OA No.175/2012 has sought the following reliefs:-

- "(i) *By an appropriate writ order or direction impugned order dated 09.03.2012 at Annexure-A/1 qua the private respondents be declared illegal and be quashed and set aside.*
- (ii) *By an order or direction respondents may kindly be directed to include the name of the applicant in the impugned panel dated 09.03.2012 at Annexure-A/1 and further respondents be directed to send the applicant for training to training school Ajmer for the post of JE Mechanical and after completion of training he may be appointed/promoted on the post of JE Mechanical with all consequential benefits.*
- (iii) *Exemplary cost be imposed on the respondents for causing undue harassment to the applicant.*
- (iv) *Any other relief which is found just and proper in the fact and circumstances of the case be passed in favour of the applicant in the interest of justice.*
- (v) *That the impugned letter dated 19.09.2013 at Annex.A/1-a and impugned panel dated 20.09.2013 at Annex.A/1-b be declared illegal and be quashed and set aside."*

The applicant, Pradeep Makad, in OA No.226/2012 has sought the following reliefs:

- "(1) *By an appropriate order or direction impugned order dated 09.03.2012 at Annex.A/1 and letter dated 19.09.2013 Annex.A/1-a and panel dated 20.09.2013 Annex.A/1-b qua the private respondents be declared illegal and be quashed and set aside.*
- (2) *By an order or direction respondents may kindly be directed to include the name of the applicant in the impugned panel dated 09.03.2012 at Annex-A/1 and further respondents be directed to send the applicant for training school Ajmer for the post of JE Mechanical and after completion of training he may be appointed / promoted on the post of JE Mechanical with all consequential benefits.*
- (3) *By an order or direction respondents may kindly be directed to award the marks of seniority, service record, awards and CME Award to the applicant and if the applicant stands meritorious he may kindly be directed to be promoted on the post of JE Mechanical with all consequential benefits."*

3. On 07.05.2012, after observing anomalies in the answer keys, it was ordered by this Tribunal that the effect and operation of the impugned order dated 09.03.2012 (Annexure-A/1) be stayed and the respondents were directed to produce the original copies (question papers and answer sheets) of all those candidates who had appeared in the examination for perusal of Court. Further, on 23.05.2012, the order dated 07.05.2012 was modified to the effect



that the training of those included in the panel will continue till its conclusion on the due date in consideration of the undertaking given by the official and the private respondents and the official respondents were directed not to make any placement after the conclusion of the training in the scale of promotion or make any appointment against this post till the final outcome of this OA. During the course of hearing on 04.10.2013, the revised result was produced before this Tribunal in the sealed cover and in the revised panel, which was prepared in pursuance to the constitution of a Review Board after preparation of revised answer key, two more persons namely Shri Ganga Ram and Shri Hari Singh were included in the revised panel dated 20.09.2013, and Shri Ugam Singh Sodha and Shri Subhash Yadav were excluded from the revised panel list. In pursuance to the declaration of revised panel dated 20.09.2013, two more respondents Ganga Ram and Hari Singh were also arrayed as party respondents and they were also provided opportunity to file the reply. In Om Prakash and Pradeep Makad' case all the persons who were selected in the first panel as well as in the revised panel were arrayed as party respondents. Shri Ugam Singh, applicant, has filed a separate OA No.287/2013 in view of the show cause notice issued to him.

4. By way of reply in Om Prakash Choudhary and Pradeep Makad's case, the official respondents denied the charges of malafide and arbitrariness. It has been further averred in the reply that while assessing service record for preparing the merit list, last three years service record of the candidates have been taken into

8/10/2013

consideration as per the rules. It has been further averred that the applicant Shri Om Prakash has not been accorded any award during last three preceding years. With reference to the written results, it has been further averred that the answer key on the basis of which the question papers were checked were common for all the candidates and whatever answer was given in the answer key was used for all the candidates were common. Thus, in no case it can be said that injustice has been done with any individual. The question papers and answer keys of the written test, in view of certain anomalies and errors, were re-examined by the Review Committee and after preparing the revised answer key and based on the revised answer key marks were accorded to the candidates. As far as paper screening and consideration of service record is concerned, the ACRs of those persons were considered who were there in a particular pay band and for whom ACRs are recorded and maintained, and for the rest of the persons below a certain pay, as there was no provision for writing the ACRs, special working reports were called for. Thus, on the basis of revised answer key & re-evaluation of the marks of the written test by the Review Committee and paper screening based on consideration of records including ACRs for those officials in the categories where ACRs are required to be maintained, and Working Reports for those officials whose ACRs are not kept (because they are below a particular pay band) the revised panel was issued on 20.09.2013 and there is no illegality, unfairness or injustice in the process.



5. The private respondent No.11, Hari Singh, in OA No.175/2012 & 226/2012 supported the preparation of the revised panel and in his reply he averred that no favouritism or injustice has been done by the official respondents and he found place in the revised panel after re-examination of the answer key by the Review Committee. Therefore, it cannot be said that any favouritism has been done by the official respondents and further he supported the revised panel dated 20.09.2013.

6. During the course of arguments, the Counsel for the private respondents No.12, Ganga Ram, in OA No.175/2012 & 226/2012, has submitted that he did not want to file any reply and prayed that the reply filed by the official respondents may be considered to be adopted by him.

7. By way of rejoinder, the applicant in OA No.175/2012 & 226/2012 have reiterated the same facts as averred in the OAs.

8. The applicant, Ugam Singh Sodha, by way of OA No.287/2013 has challenged the show cause notice dated 13.04.2013 (Annexure-A/1), which was given to him after the re-examination of the answer key, and further he has challenged the legality of the process of the examination by averring that he has not been awarded the marks as per the revised answer key and he has also challenged the process of screening of papers. Hence, by way of OA No.287/2013, he has prayed for the following reliefs: -

"(i) It is, therefore prayed that show cause notice dated 13.04.2013 (Annexure-A/1) and amended answer key (Annexure-A/15) may kindly be quashed and set aside. A declaration be made that the respondents are estopped from revising/amending the panel dated 09.03.2012, if needed the respondents be

directed to place on record the amended panel on record and same may kindly be quashed and set aside. If necessary the criteria of warding of grading with regard to working report be quashed being arbitrary discriminatory and without any guidelines giving unbridled and unfettered powers to the authorities to do away with the merit of service record. Directions be issued to the official respondents to reassess the merit of service record of the applicant, other persons with zone of consideration vis-à-vis person in zone of consideration by following a just and fair criteria to assess the paper seriously of the selection process. To issuing fresh panel and ground of selection and panel to the candidates including the applicant as Junior Engineer-II (Mechanical) if found suitable.

- (ii) Any other favourable order which this Hon'ble Tribunal may deem just and proper in the facts and circumstances of the case may kindly be passed in favour of the applicant.
- (iii) The amended answer key (Annexure-A/15) may kindly be quashed and set aside.
- (iv) Original Application filed by the applicant may kindly be allowed with costs.
- (v) Each and every prayer made herein above is alternative and without prejudice to each other.
- (vi) That the impugned letter dated 19.09.2013 and 20.09.2013 (Annexure-A/17 and Annexure/A-18) may kindly be quashed and set aside."

9. By way of reply, the official respondents in OA No.287/2013

defended the constitution of the Review Committee as well as preparation of the revised answer key and revised results of written test based thereon, and the process of paper screening along with revised panel dated 20.09.2013. It has been further averred in the reply that after constitution of the Review Committee, the revised answer key was issued and answers were re-examined, and thereafter a fresh panel was declared 20.09.2013 in which the applicant, Ugam Singh Sodha, could not find place. Hence, they prayed to dismiss the OA.



10. The private respondents No.4, 9 & 10 in OA No.287/2013 also defended the revised panel and the process of paper screening as well as the constitution of the Review Committee.

11. The private respondent No.9, Hari Singh, in OA No.287/2013 has filed a separate reply and in which he has averred that by the constitution of the Review Committee, the irregularities committed in the selection process were cured and revised answer

key was prepared and after reevaluating the question paper as per the revised answer key, the mistakes were rectified and thus he defended the revised panel dated 20.09.2013.

12. The applicant, Ugam Singh Sodha, has also filed a rejoinder and during the course of arguments, the counsel for the applicant submitted that though he has filed the rejoinder to the reply filed by the official respondents but he wants to adopt the rejoinder to the reply filed by the private respondents also.

13. Heard Counsels for the parties. Shri S.K. Malik, counsel for the applicant, Om Prakash, contended that the respondent department advertised the vacancies on 12.07.2011 (Annexure-A/2) and the written examination were conducted on 26.02.2012. The result of the written examination were declared on 01.03.2012 and on 08.03.2012 the special working report were prepared by the official respondents for all the candidates whose ACRs were not there because of certain categories of officials, ACRs are not required to be recorded as per the Railway Board Circulars. It has been further contended that the panel was declared on 09.03.2012 and from 10.03.2012 the training was started which was completed on 09.03.2013. During this process, the respondent department constituted a Review Committee and a revised answer key was prepared and in pursuance to that revised answer key the question paper and marks were re-examined and accordingly a revised panel dated 20.09.2013 was prepared. It has been further contended that the respondent department called the special working report of all



the candidates whose ACRs were not required to be recorded and who were declared passed in the written examination and thus the respondent department while preparing the panel adopted two different criteria for paper screening. It has been further contended that the special working report were called for as well as prepared, after the declaration of the result of the written examination. He stated that it is an admitted fact that the working report of all the candidates were prepared for all the three preceding years, on one day. It has been further contended that out of the revised panel dated 20.09.2013, the working reports as well as ACRs for last preceding three years were considered as shown in the chart below:-

SN	Name	Design	TN/Shop	ACR/WR considered for 3 years
1.	Shiv Prasad Purohit	Tech-II	11087/08	3 WRs
2.	Ravi Prakash Chouhan	Tech-II	10419/18	3 ACRs
3.	Raj Kumar Meena (ST)	Tech-II	11436/18	1 (WR), 2 (ACRs)
4.	Bhoma Ram Meena (ST)	Tech-II	11557/08	3 WRs
5.	Hari Singh	Tech-II	11467/12	3 WRs
6.	Sunil Kumar Tak	Tech-III	11004/11	3 WRs
7.	Rajneesh Kumar	Tech-I	10417/11	3 ACRs
8.	Ganga Ram	Tech-II	11010/14	3 WRs
9.	Naresh Kumar Chouhan (SC)	Tech-II	10529/18	3 ACRs
10.	Sharwan Kumar Mohanpuriya (SC)	Tech-II	11466/01	3 WRs

14. It has been further contended by the counsel for the applicant that the ACRs of last three preceding years of applicant Ugam

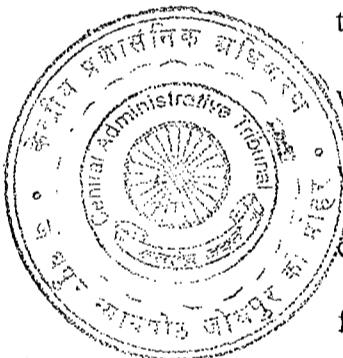


Singh Sodha were considered. Counsel for the applicant contended that the department cannot apply different criteria i.e. ACRs for one set of persons, and working report for last three preceding years prepared on one day, for the other sets of persons, as it is patently discriminatory. Learned Counsels Mr. Kailash Jangid, Mr. Mahesh Joshi and Mr. Girishi Joshi, representing the applicant in different OAs, more or less adopted the same arguments advanced by Shri S.K. Malik, counsel for the applicant in Om Prakash's case.

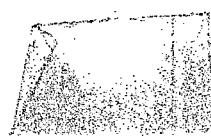
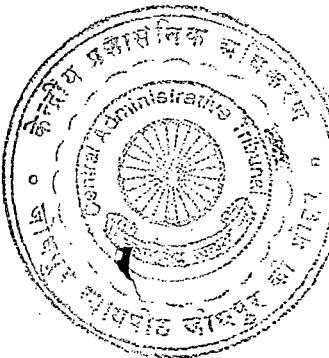
15. It is not in dispute that the two different criteria were adopted for paper screening but the counsel for the official respondents contended that there are various circulars of the Railway Boards stating that upto a particular pay band, no ACRs are required to be recorded and for selections/promotions, three years' working report of such persons are required to be called from the competent authority and on the basis of that working report, the promotions/selections were being made regularly in the year. It was further contended that the applicant themselves appeared in the examination therefore they are stopped to challenge the legality of examination as well as paper screening process and further as they did not challenge the eligibility list itself, therefore now they cannot challenge the further process. Learned Counsels Mr. Kuldeep Mathur, Mr. Sanjay Kapoor, Mr. Harish Purohit and Mr. R.S. Saluja, representing the private respondents in different OAs, more or less adopted the same arguments advanced by Shri Salil Trivedi, counsel for the official respondents.

16. Counsel for the applicant in support of his argument relied upon the judgment of Punjab and Haryana High Court passed in Civil Writ Petition No.20612/2013 (*Union of India & Ors. v. Raghubir Singh & Ors.*) dated 18.09.2013. Counsel for the respondents in the support of their claim relied upon the judgment of Delhi High Court passed in Writ Petition (Civil) No.7724/2010 (*General Manager, Northern Railways v. Brij Mohan & Ors.*) dated 12.02.2013.

17. We have considered the rival contentions of the parties and also considered the available record. It is an admitted fact that the working report for those officials, whose ACRs are not recorded because of being in a pay band below a certain stab, were called for from the competent authority and the competent authority prepared the working report for the last three years in a clubbed manner on the same date; whereas in the case of those persons whose ACRs were recorded, the ACRs for the last three preceding years which were written by the controlling authority year wise were considered. In our considered view, calling of the working report for the last three years written by the competent authority in a clubbed manner at the same time, cannot be said to be legal or fair procedure for evaluation of the paper screening. The respondent department adopted a strange process which is not only discriminatory but is also violative of fair and just service jurisprudence. Such a procedure adopted by the respondent department, if allowed, will cause heartburn amongst the senior officials and at the same time facilitate the authorities to adopt a



pick and choose policy in utter disregard to the concept of equality enshrined in Articles 14 and 16 of the Constitution. The employees, who are competing for a promotional/selectional posts should be tested on a uniform pattern without any undue advantage of fortuitous circumstances. The respondent department cannot justify their action of assessing one employee on the basis of his previous ACRs written and prepared on annual basis year wise, and the other by calling for working report with regard to his work and conduct prepared on the same day. In such a situation, an employee who had worked very hard during the last three years may have been assessed differently by the assessing officers, while the officer who is writing the working report may not be in a position to assess the working of junior employees for the last three years. His simply describing an official or his work as 'good' or 'outstanding' may jeopardize the service career of seniors or may not protect the rights of the junior officers. It appears that the Railway organization has adopted a discriminatory policy, which has resulted into unfair and arbitrary consequences, because subsequently in the years 2012, the Railway authorities themselves have modified the earlier procedure and now directed all the officials to prepare the working report of the concerned employees on year wise basis. Moreover, in all these OAs, earlier the answer paper were checked and evaluated as per the wrong answer key and subsequently the Railway department themselves constituted a Review Committee and as per the revised answer key the revised written test result was declared, which indicates that the written test



too suffered from certain infirmities. We are in respectful agreement with the judgment of the Punjab and Haryana High Court instead of the judgment passed by the Delhi High Court, and therefore, the entire process conducted by the respondents No.2 &3 for selection for the post of Junior Engineer Electrical against 25% in intermediate apprentice quota in pursuance to the Annexure-A/2 i.e. notification dated 12.07.2011 is quashed. Further, in the facts and circumstances of the case, we direct the respondents No.2 &3 to the Chief Workshop Manager, North Western Railway, Carriage Workshop, Jodhpur, and Senior Personnel officer, North Western Railway, Carriage Workshop, Jodhpur, to seek the instructions of the Railway Board for assessment of service record and paper screening based on criteria which is not discriminatory but is fair and wholesome and to re-assess the service record in a fair manner.

18. Accordingly, all the three OAs are allowed to the extent stated hereinabove. No order as to costs.

(Meenakshi Hooja)
Administrative Member

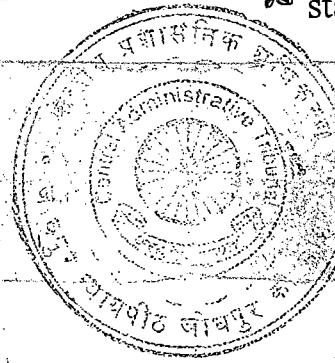
(Justice K.C. Joshi)
Judicial Member

CERTIFIED TRUE COPY

Dated 04.12.2013

J.K. Sharma
General Administrative Tribunal
State Capital Wing
Maitri Bhawan, Jodhpur.

COMPARED &
CHECKED





**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH AT JODHPUR**

Review Application No. 290/00002/2014

In
Original Application No. 226/2012

Date of decision: 23.01.2014

CORAM:

HON'BLE MR.JUSTICE K.C.JOSHI, JUDL. MEMBER
HON'BLE MS MEENAKSHI HOOJA, ADM. MEMBER

1. Union of India through the General Manager, North Western Railway, Jaipur.
2. Chief Workshop Manager, North Western Railway, Carriage workshop, Jodhpur.
3. The Senior Divisional Personnel Officer, North Western Railway, Carriage Workshop, Jodhpur.

...Applicants
(Respondents No. 1 to 3 in O.A.)

(By Advocate Mr Salil Trivedi)

V.S.

1. Pradeep Makad S/o Shri Mohan Lal, aged 44 years, R/o
Mitra Sargam, Kila ki Sarak, Bagar Chowk, Jodhpur (Raj.).
(Applicant in the OA)

2. Sh. Shiv Prasad Purohit, Tech.-II, T.No.11087 Shop No.8,
Carriage Workshop, North Western Railway, Jodhpur.

3. Sh. Sunil Kumar Tak, Tech.-III, T.No.11004 Shop No.11
Carriage Workshop, North Western Railway, Jodhpur.

4. Sh. Bhoma Ram Meena, Tech.-II T.No.11557 Shop No.8
Carriage Workshop, North Western Railway, Jodhpur.

5. Sh. Ugam Singh Sodha, Tech.-I, T.No.11446 Shop No.14
Carriage Workshop, North Western Railway, Jodhpur.

6. Sh. Rajneesh Kumar, Tech.-I, T.No.10417, Shop No.11,
Carriage Workshop, North Western Railway, Jodhpur.

7. Sh. Subhash Kumar Yadav, Tech.-II, T.No.11387, Shop
No.12, Carriage Workshop, North Western Railway,
Jodhpur.

8. Sh. Ravi Prakash Tech.-II, T.No.10419, Shop No.18
Carriage Workshop, North Western Railway, Jodhpur.

9. Sh. Hari Singh, Tech.-II, T.No.11467, Shop No.12, Carriage
Workshop, North Western Railway, Jodhpur.

10. Sh. Ganga Ram Tech.-II T.No.11010 Shop No.14 Carriage
Workshop, North Western Railway, Jodhpur.



11. Sh. Raj Kumar Meena (ST) Tech.-II, T.No.11436, Shop No.18, Carriage Workshop, North Western Railway, Jodhpur.
12. Sh. Naresh Kumar Chouhan (SC) Tech.-II, T.No.10529m Shop No.18, Carriage Workshop, North Western Railway, Jodhpur.
13. Sh. Sharwan Kumar Mohanpuriya (SC) Tech.-II, T.No.11466, Shop No.01 Carriage Workshop, North Western Railway, Jodhpur.

(Private respondents in the OA)

ORDER

1. The Review Application bearing No. 290/00002/2014 has been filed by the applicants to amend the order passed in OA No. 226/2012 on 22.11.2013.
2. Heard.
3. The grounds averred in the application are that this Tribunal quashed the validity of the notification dated 12.07.2011 whereas the validity of this notification has never been questioned by the applicants nor any relief has been sought regarding quashing the notification. Further, this Tribunal has not assigned any reason for relying upon the judgment of Hon'ble Punjab & Haryana High Court and not of the Delhi High Court. It has been further averred that the circulars issued by the Ministry of Railways have been indirectly declared illegal and without there being any challenge to the same.
4. We have perused the Review Application, the judgment under review and also considered the contentions of the applicants. As regards the operative portion we never had any intention to quash the notification dated 12.07.2011 (Annex. A/2)

itself, but only intended to quash the entire process conducted by the respondents No. 2 & 3 in pursuance to Annex. A/2 i.e. notification. But, inadvertently insertion of two commas, one after the words '**apprentice quota**,' at page No. 16 in line No. 6 and another after '**in pursuance to Annex. A/2 i.e. notification dated 12.07.2011**,' in line No. 7, got left out. We, therefore, order that comma at both these places be inserted and be read because our intention was only to quash the process and not the notification itself. So far as relying upon the judgment of Hon'ble Punjab & Haryana High Court judgment is concerned, we have relied upon the judgment of Hon'ble Punjab & Haryana High Court while considering the facts of the case, therefore, no case or ground for any review on this point is made out.

5. In our judgment dated 22nd November, 2013 in Para-17, at page 16, line No. 5 the words "for selection for the post of Junior Engineer Electrical" have been mentioned whereas the notification dated 12.07.2011 pertains to the post of Junior Engineer Mechanical. Therefore, in Par-17 at page 16, line No.5 the words "for selection for the post of Junior Engineer Electrical" may be read as "for selection for the post of Junior Engineer Mechanical".

6. Other grounds raised in the review application touch the merits of the case and therefore, cannot be allowed in a review.

7. Accordingly, Review Application No. 290/00002/2014 is disposed of as above by circulation, with no order as to costs.



This order shall be the part of main order dated 22.11.2013.

[Signature]
[Meenakshi Hooja]
Administrative Member

[Signature]
[K.C. Joshi]
Judicial Member

COMPARED &
CHECKED
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CERTIFIED TRUE COPY

Dated 31.1.2014.....

J.K. Joshi
Secretary
Central Administrative Tribunal
31.1.2014
Ref: Order No. 290/00002/2014.