

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, LUCKNOW BENCH

Original Application No.454/2003.
this the day of 25.9.2003.

HON'BLE MR. KULDIP SINGH, MEMBER (J).
HON'BLE MR.S.K. AGRAWAL, MEMBER (A).

Anil Kumar aged about 32 years S/o Sri,
Mool Chand working as Guard Passenger North,
Eastern Railway, Lucknow R/O Quarter No.
68/F, N.E. Railway Loco Colony, Mawaiyan,
Lucknow.

... Applicant.

By Advocate:-Sri A. Moin.

Versus.

Union of India,
General Manager, North Eastern Railway,
Gorakhpur.

2. Divisional Railway Manager,
North Eastern Railway,
Ashok Marg, Lucknow.

3. Rajesh Kumar working as Trains Controller,
under D.R.M., N.E. Railway, Ashok Marg,
Lucknow.

... Respondents.

By Advocate:-Sri Ajmal Khan.

O R D E R (ORAL)

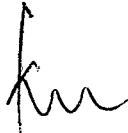
BY MR. KULDIP SINGH, MEMBER (J).

The applicant has impugned order dated 11.4.2003 passed by Respondent No.2 by which two persons have been promoted on the post of Trains Controller as well as the order dated 24.4.2003 modifying the order dated 11.4.2003 which are annexed as Annexure-A-1 and Annexure-A-2 to the O.A.

2. The facts in brief are that the applicant and other two applicants have earlier filed an O.A.No.198/1998 which was decided by this Tribunal on 8.11.2001. In the said O.A. the applicants have impugned an order dated 15.4.1998 and 28.4.1998. Whereby they have challenged the holding of subsequent selection to the post of Train Controller. The Tribunal while allowing the O.A. directed for cancellation of the result by the D.R.M. vide order dated 15.4.1998 ^{being} _h is in violation of Para-219(k) of the Indian Railway Establishment Manual. The order dated 28.4.1998 is also quashed and the respondents are directed to announce and publish the final result of the selection held in pursuance of the notification dated 14.8.1997. The Tribunal further directed that in case of such publication of the result, any of the applicant is found selected, he be promoted and given all consequential benefits. Consequent to that the result of the selection notified on 14.8.1997 was published and the applicant was found to ^{have} _{be} qualified the same. The respondents gave promotion to two applicants but the present applicant could not be given

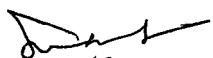
promotion because the aforesaid order was challenged by one Devi Shankar Sanjavaia before the Hon'ble High Court of Allahabad (Lucknow Bench) vide Writ Petition No.1109 (SB) of 2002 and obtained stay order ^{against} ~~for~~ his reversion and the matter is still sub-judice before the Hon'ble High Court. Learned Counsel for respondents stated that since one S.C. candidate has been retained on the post of Trains Controller on the basis of interim order passed by the Hon'ble High Court, the petitioner Anil Kuamr who is ^{also} a S.C. candidate could not be promoted. Since ~~in~~ on the basis of interim order passed by the Hon'ble High Court two persons namely Sri Rajesh Kumar and Dinesh Kumar Srivastava have been promoted vide order dated 11.4.2003 and the order had been issued subject to final out-come of the Writ Petition No.1109 (SB) of 2002.

3. The applicant has submitted that in the promotion order certain non applicant in the O.A. has also given promotion though the order of Tribunal was to give promotion to all the applicants who were found selected. In our view this contention of the Learned Cou-nsel for applicant ^{merely} has no ~~concern~~ because once the result has been declared all the candidates who had been qualified were eligible for promotion in accordance with the ^{exhort} ~~instant~~ instructions. Besides, that since one of the candidate who was found to be selected in the subsequent selection which has been held in pursuance of the direction of this Tribunal in O.a.No.198/1998 has since obtained stay order from the Hon'ble High Court against his reversion, so the applicant could not be promoted. Hence, we find from the perusal of the O.A. that no ~~any~~ other grievance has been mentioned in Para-5 in the

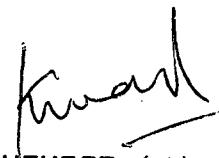


grounds to challenge the order because it was based on the result of the selection held in pursuance of the notification dated 14.8.1997. Since there is stay in reversion of one candidate unless the stay is vacated applicant cannot be promoted. Hence no ground to interfere at this stage.

4. In view of the above the O.A. has no merits and the same is dismissed without any order as to costs.



MEMBER (A)



MEMBER (J).

Dated :-25-09-2003
Lucknow