

Central Administrative Tribunal Lucknow Bench Lucknow.  
Original Application No; 96/2004.  
Lucknow, this the 4th day of June 2004.

HON'BLE SHRI S.P. ARYA MEMBER(A)

1. Liyaqat Ali S/o Sri Karam Ali R/o Ovill. Bhairam Pur, Possession. Baundera District Gonda.
2. Devi Prasad S/o Sri Anirudh Prasad R/o Vill. and Po. Ayar District Gonda.

....Applicants.

BY Advocate : Shri Manoj Kumar Mishra.

VERSUS

1. Union of India, through G.M. (N.E.R.) Gorakhpur
2. Divisional Railway Manager, N.E. Railway Ashok Marg Lucknow.

....Respondents.

BY Advocate: Shri V.P. Srivastava for Shri Arvind Kumar.

ORDER

BY SHRI S.P. ARYA MEMBER(A)

In pursuance of the notification dated 23.9.97, screening was held and by order dated 14.10.98, list of empanelled casual/substitute labours issued (Annexure 1). The applicant No. 1 finds place amongst the empanelled candidates at S.No. 107. Another notification dated 19.12.2003 issued for screening test enclosing a list of 295 candidates in which both of the applicants did not find place. The results of empanelment dated 14.10.98 was cancelled on 3.2.2004 by office order No. 2095 (Annexure No. CR-1). The results of the screening/empanelment of substitutes was declared vide notification dated 3.2.2004 in which the applicants

✓

did not find place. Feeling aggrieved by non inclusion of their names in the empanelled candidates, applicants by this O.A. seek for quashing of the result of the screening notified on 3.2.2004 and also prayed for <sup>issue of 2</sup> direction to opposite parties to prepare a fresh list for screening and consider the names of the applicants on the basis of their seniority.

2. It was not only applicant No. 1 who was not appointed on the result declared on 14.10.98 but 207 others who have found place in that select list, have not been appointed. Now the results have been cancelled because of certain irregularities found in the screening. The result declared was not final. Once it was found by the authorities that there were irregularities in the screening, cancellation of result, ~~without any valid reason~~, cannot be interfered with <sup>in absence of any valid reason.</sup>

3. In the counter reply, it has been stated by the respondents that applicants ~~No. 1~~ <sup>✓</sup> applied and participated in the screening test held in pursuance of the notification dated 19.12.2003. They have no right to claim for their placement in the panel recommended for regular appointment. Once they have been given the opportunity to participate in the screening, they cannot challenge screening test and results thereof. The applicants have not specifically denied the same in their Rejoinder Reply.

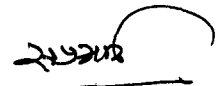
4. Counsel for the applicants has relied on the certificate issued by the Station Superintendent on 4.2.2004 stating that working days of applicants No. 1 and 2 respectively 4078 days and 2475 days. However, this certificate referred to a notification dated 19.12.2002 <sup>and ✓</sup> ~~that is~~ not 19.12.2003.

5. The counsel for the respondents relies on Annexure 1 and 2 of the Supplementary Counter Reply where the applicants have declared their working days. It is stated by the respondents that finding that applicants had not worked 2760 days, they were not entitled for

empanelment as none of the general category candidate has been empanelled who has worked less than 2760 days. The verification of working days <sup>has to be done</sup> on the basis of records available with them. The claim of the respondents ~~that~~ <sup>with</sup> ~~regards~~ record to the working days does not stand established. The certificate issued by Station Superintendent, NER, Lucknow Jn. itself states that the Attendance Register of years 1986-2002 are seized and therefore, verification cannot be done at his level. Declaration of the applicant would not entitle them to be considered for empanelment. The respondents states that only 1620 days were found verified in respect of applicant No. 1 and 1214 days in respect of applicant No. 2. Even if the days for which records were not available are included, the applicant would not be eligible for consideration for empanelment. The non verified days are said to be 760 in respect of the applicant No.1 and 663 in respect of applicant No. 2. This totals to 2380 and 1877 in respect of the applicants respectively. This being less than 2760 days, the applicants could not be empanelled. <sup>Accordingly it is found that no discrimination has been made in the selection and it</sup>

6. In view of the above discussion, I find no merit in the O.A. It is dismissed. No cost.

cannot be  
said unjust  
and unfair, &

  
(S.P. Arya)  
Member (A)

HLS/-