

**CENTRAL ADMINISTRATIVE TRIBUNAL,
LUCKNOW BENCH,
LUCKNOW.**

Original Application No. 11 of 2006

Reserved on 19.5.2014

Pronounced on 22nd May, 2014

Hon'ble Mr. Navneet Kumar, Member-J

Hon'ble Ms. Jayati Chandra, Member-A

S.P. Chandock, aged about 44 years, S/o late Sri Dharam Pal, R/o House No. T-35/C/2, Jail Road, Lucknow (presently working as Senior TTE in NR, Lucknow Division, Lucknow).

.....Applicant

By Advocate : Sri A.P. Singh.

Versus.

1. Union of India, Ministry of Railways (Railway Board), through the General Manager, NR, Baroda House, New Delhi.
2. DRM, NR, Lucknow Division, Lucknow.
3. DRM (Personnel), NR, Lucknow Division, Lucknow.
4. Sr. Divisional Commercial Manager, NR, Lucknow Division, Lucknow.

.....Respondents.

By Advocate : Sri S. Verma.

ORDER

Per Ms. Jayati Chandra, Member (A)

The Original Application has been filed under Section 19 of Administrative Tribunals Act, 1985 with the following main relief(s):-

- (i) *"issuing/passing of an order or direction to the respondents to re-examine the copy of the applicant in respect of written test for the post of Head TTE held on 15.7.000 and declare its result within a period of one month and if the applicant is found successful in the written test to place him at correct position in the provisional panel declared on 25.4.2001 and promote to the post of Head TTE accordingly with the benefit of seniority and back wages etc.*
- (ii)
- (iii)"

2. The facts, as averred by the applicant are that he was appointed as Ticket Collector (TC) in the pay scale of Rs. 950-1500/- w.e.f. 16.4.1977. He was promoted/appointed to the post of Senior Ticket Collector (STC) in the pay scale of Rs. 1200-

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2040/-. A notice was issued on 30.6.2000 for holding written test for the post of COR/HTTE/HTC in the grade of Rs. 5000-8000/- on 15.7.2000 and supplementary test on 23.7.2000. The list of eligible persons was also annexed with the said notification (Annexure-4). The name of the applicant figured at sl. No. 24. The applicant appeared in the written test. The result of the written test by which certain candidates, who were found to be suitable for viva voce test was published on 12.9.2000 (Annexure-5). Not finding his name in the list of successful candidates, he made an application to DRM, NR, Lucknow (respondent no.2) on 18.9.2000 and also met him personally for re-examination of his answer sheet (Annexure no.6). On the said application, the DRM, NR, Lucknow had made an endorsement to the effect that his copy be re-examined by endorsing the Sr. DPO, but nothing has been done, hence this O.A.

3. The respondents through their Short Counter Reply denied the case of the applicant stating that the list of eligible candidates for the post of Head TTE in the scale of Rs. 5000-8000/- was notified on 30.6.2000 in which the name of the applicant figured. The applicant appeared in the written examination. The result of written examination was declared vide notification dated 12.9.2000.

4. The applicant was not called to appear in viva voce test as he could not pass in the written examination. The prayer of the applicant does not merit consideration as there is no provision in the selection and promotion Rules for revaluation/ re-examination of answer books when the same have been evaluated by the member of the Selection Board. Further, the applicant has never pointed out any irregularity in the process of selection nor he represented against the same for the alleged irregularity in the selection process and after participation in the same, the applicant cannot be permitted to 'U' turn saying that the selection process is faulty.

4. Rejoinder Reply has been filed by the applicant refuting the averments made by the respondents in their Short Counter Reply and reiterating the stand taken in the Original Application. Moreover the applicant in his Rejoinder Reply has stated that a

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provision exists with regard to moderation of results under Railway Board's circular no E(NG) I-84/PMI-6 dated 30.3.1985 read with Railway Board's circular no. E(NG) 168 PMI-60 dated 29.8.1968 which provides as under:-

"However, it will be open to the competent authority to use his discretion and take such action as is considered necessary if it is satisfied that an irregularity has occurred and on that account some staff has been put to hardship."

5. Supplementary Counter Reply has also been filed by the respondents in which they have stated that the present O.A. is highly barred by time by relying upon the judgment of Hon'ble Supreme Court in the case of **Gurdev Singh Vs. State of Punjab reported in JT 1991 (3) SC 465** by stating that the instant O.A. is liable to be dismissed on the ground of delay and laches.

6. Supplementary Rejoinder Reply has also been filed by the applicant denying the averments made in the Supplementary Counter Reply.

7. We have heard the learned counsel for the parties and have perused the pleadings on record.

8. The basic case of the applicant is that as he was not declared successful in the written examination, he preferred an application dated 18.9.2000 to DRM, NR, Lucknow, who on the margin of the said application ordered that his case be re-examined endorsing the same to Sr.D.P.O. This order does not carry any official seal. More-over the applicant has not demonstrated that this hand written order was served upon the named officer namely Sr. DPO. It is also not clear whether the Sr. DPO was part and parcel of the selection committee, which held the examination and subsequently declared the result vide letter dated 12.9.2000 or that he could himself withhold the process of selection. The applicant in his Rejoinder Reply, no-doubt has quoted the provisions of circulars issued by the Railway Board, but has not annexed the copies thereof. More-over, even if the extract quoted in para 4 above by the applicant is taken to be true then it should be read in whole and not in isolation. The applicant had addressed a representation allegedly by DRM, NR, Lucknow,

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but the signature has not been authenticated either by the official seal or even by the mentioning the full name. The marginal order is cryptic and it does not show that the same is passed after "taking cognizance of irregularity". Even the representation does not mention any irregularity. It is an application by the applicant, which has been made by him stating that he had done well in the written examination and, therefore, wished to have his answer-book reexamined. In absence of the order of re-examination putting back by enabling legal/administrative provisions, absence of authenticity of the official seal of the competent authority and also absence of its service on the authority to whom it was directed, it is hold that the applicant has failed to make-out any case for interference by this Tribunal. Apart from the above, the applicant has not arrayed Sr. D.P.O. as one of the parties in the Original Application.

9. In view of the above, we do not find any good ground to interfere by directing the respondents to re-examine the answer-book of the applicant. The O.A. fails and is accordingly dismissed. No costs.

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(Ms. Jayati Chandra)
Member-A

U.P. Agarwal
(Navneet Kumar)
Member-J

Girish/-