

Central Administrative Tribunal, Lucknow Bench, Lucknow
Original Application No. 432/2006

This the th18 day of September, 2012

Hon'ble Mr. Justice Alok Kumar Singh, Member (J)
Hon'ble Sri S.P.Singh, Member (A)

1. Lallanji Pandey aged about 51 years son of Sri Ram Chattar Pandey, r/o Moh. Tukhaia, Post Kanthinagar Basti, District- Basti
2. Ram Lallan Chowdhary, aged about 48 years son of Ram Achal Chowdhary, r/o Gram Ranipur, Post Sanda Munderwa, District- Basti

Applicant

By Advocate: Sri Amit Verma for Sri A.Moin

Versus

- 1 Union of India, through General Manager, North Eastern Railway, Gorakhpur.
2. Divisional Railway Manager, North Eastern Railway, Ashok Marg, Lucknow.
3. Divisional Railway Manager (P), North Eastern Railway, Ashok Marg, Lucknow.

Respondents

By Advocate: Sri D.B. Singh

(Reserved on 17.9.2012)

ORDER

By Hon'ble Mr. Justice Alok Kumar Singh, Member (J)

This O.A. has been filed for the following reliefs:-

- a) to quash the impugned rejection orders dated 26.7.2005 passed on behalf of the respondent No. 3 as contained in Annexure A-1 and A-2 to the O.A.
- b) to direct the respondents to appoint the applicants on any class IV post keeping in view the select list dated 1.8.1987 as contained in Annexure A-3 to the O.A. by extending the benefit of the decision of the Hon'ble Court in O.A. No. 669 of 1995 in re Mohd. Shafiq Khan Vs. Union of India and others decided on 18.5.2004.
- c) to direct the respondents to pay the cost of this application.
- d) any other order which this Hon'ble Tribunal deems just and proper in the circumstances of the case be also passed.



2. The case of the applicants in brief is that they were initially engaged as Casual Labours by the respondents and they worked for a period of about 462-460 days. Thereafter, a selection was held and as per result declared on 1.8.1987, they were also selected and placed in the panel at Sl. No. 362 and 363 (Annexure A-3). But name of the applicant No.1 was wrongly typed as Lalji Pandey instead of Lallanji Pandey. However, the name of his father has been correctly shown. Thereafter, both the applicants were declared medically fit. The applicant No.1 was found fit in B-2 and below while the applicant No.2 was found fit in A-2 and below category (Annexure A-4). After being declared successful, both the applicants and 8 others (total 10 persons) were sent for being posted under the Loco Foreman Gonda vide order dated 10.2.88 (Annexure A-5). In this list, the name of applicant No.1 has been correctly typed as Lallanji Pandey but the name of another applicant i.e. applicant No. 2 has been erroneously typed as Ram Lakhon Chowdhary instead of Ram Lallan Chowdhary. However, both the applicants were not allowed to join. One more person, namely Mohd. Shafiq Khan was also not allowed to join. Sri Khan preferred O.A. No. 669/1995 which was decided on 18th May, 2004 by this Tribunal (Annexure -A 5(a)). In furtherance of that order, Sri Khan has been appointed vide order dated 21.10.2004. Both the applicants are similarly situated persons and as soon as they came to know about it, they filed O.A. No. 43/2005 which was decided on 19.1.2005 with a direction to the respondents to treat the O.A. as representation of the applicants and consider the grievance of the applicants in the light of the decision in O.A. No. 669/1995 by means of a detailed and speaking order. Though the case of the applicants was similar but the respondents have rejected their representations vide impugned order dated 26.7.2005 (Annexure A-1) and (Annexure A-2).

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3. This O.A. has been contested by the official respondents by filing a detailed C.A. saying that the impugned orders are legal and valid.

4. The applicants have also filed Rejoinder Reply reiterating the pleadings contained in the O.A.

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

6. In respect of both the applicants, namely Lallanji Pandey (Applicant no.1) and Ram Lallan Chowdhary (applicant No.2) separate orders have been passed on the same date i.e. 26.7.2005 as such, both the orders have been impugned. As appears from the pleadings, the case of both the applicants are similar but interestingly, their claims have been rejected separately on separate grounds. In respect of Lallanji Pandey, his claim has been rejected on the ground that in the panel dated 1.8.87, his name does not find place, whereas in case of Ram Lallan Chowdhary, it has been rejected on the ground that no body junior to him has been posted from the above list/panel dated 1.8.87.


7. It is worthwhile to mention here that both the applicants happens to be last two candidates at Sl.Nos. 362 and 363 in the above panel. Apparently, their cases were found to be covered by the decision of this Tribunal dated 18.5.2004 given in the above O.A. No. 669/95 which was filed by similarly placed Sri Mohd. Shafiq Khan and this is why the earlier O.A. No. 43/2005 filed by these two applicants was disposed of with the direction to the respondents to consider their grievances in the light of the decision of the above judgment and order dated 18.5.2004. The above judgment dated


18.5.2004 is also on record placed at Annexure A-5(a). The factum of both the applicants being similarly situated person vis-à-vis above Mohd. Shafiq Khan has not been specifically denied in the Counter Affidavit. Similarly, it has also not been denied that in furtherance of the final order passed in O.A. filed by Mohd. Shafiq Khan, he has been given appointment on the basis of same panel dated 1.8.87. The copy of that panel has also been brought on record as Annexure No.A-3.. The name of both the applicants find place at Sl. No. 362 and 363. There is no dispute regarding the parentage of both the applicants as mentioned in this panel. But the claim of the applicant No.1 has been wrongly rejected that his name does not find place in the panel. In this panel/list, his name has been typed as Laiji Pandey instead of Lallanji Pandey. But it is only a typographical mistake on the part of the respondents themselves because in order dated 10.2.88 issued by the respondents themselves (Annexure A-5) after being declared successful, both the applicants along with 8 others including above Mohd.Shafiq Khan (total 10 persons) have been directed to be sent for being posted under the Loco Foreman, Gonda which they could not deny in the counter affidavit and in this document, the name of both the applicants have been correctly mentioned as Lallanji Pandey (Sl.No.4) and Ram Lallan Chowdhary (Sl. No.3). Obviously, therefore, the above impugned order in respect of Lallanji Pandey is without any basis and against the record. Similarly, the other impugned order has been wrongly passed on the ground that no junior to Sri Chowdhary has been posted. It was neither any body's case that any junior to Sri Chowdhary has been posted nor there was any such issue. As said above, the case of both the applicants was that in spite of their names finding place in the above panel, they have not been given posting while similarly placed person namely Mohd. Shafiq Khan has been appointed vide order dated

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21.10.2004 in furtherance of this Tribunal's order dated 18.5.2004 and that their case is squarely covered by that judgment of the Tribunal. But unfortunately, the respondents have not acted justly and properly and rejected their representations wrongly on the flimsy pretext and against their own record.

8. Finally, therefore, in view of the above, the O.A. ^{Ar}deserve to be allowed and both the impugned orders deserve to be quashed and accordingly it is so ordered. The respondents are directed to give appointment to both the applicants on the basis of the select list dated 1.8.87 (Annexure 3) by extending benefit of the decision of this Tribunal in the O.A. No. 669/95 (Mohd. Shafiq Khan Vs. Union of India and others decided on 18.5.2004) within three months from the date of communication of this order. No order as to costs.


(S.P. Singh)
Member (A)


(Justice Alok Kumar Singh)
Member (J) 18.9.12

HLS/-