

CENTRAL ADMINISTRATIVE TRIBUNAL

LUCKNOW BENCH, LUCKNOW

Original Application No. 104/2009

This, the 14th day of December, 2011

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

1. Manoj Kumar Srivastava aged about 42 years son of Sri Lalak Prasad Srivastava, resident of Lalak Niwas, 204, Radha Kund, Gonda.
2. Rajesh Kumar aged about 38 years son of Sri Bhagwati Prasad resident of Village Ranipurwa, District-Gonda.

Applicants

By Advocate: Sri Praveen Kumar

Versus

1. Union of India through the General Manager, North Eastern Railway, Gorakhpur.
2. The Divisional Railway Manager, North Eastern Railway, 5 Ashok Marg, Lucknow.
3. The Senior Divisional Personnel Officer, North Eastern Railway, 5 Ashok Marg, Lucknow.
4. The Senior Divisional Mechanical Engineer (Diesel), North Eastern Railway, Gonda.
5. Sri P. Lal., Assistant Personnel Officer, North Eastern Railway, Lucknow.

Respondents.

By Advocate: Sri Ashok Kumar.

ORDER (Dictated in Open Court)

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 order dated 19.1.2009 contained in Annexure No. A-1 to this O.A. with all consequential benefits.
- b) to promote the applicants on the post of JE II (Electric) in scale of Rs. 5000-8000 and exempt the training period as they have unnecessarily been dragged into litigation and which resulted in loss of seniority position.
- c) any other relief, which this Hon'ble Tribunal may deem fit just and proper under the circumstances of the case, may also be passed.
- d) cost of the present case may also be awarded in favour of the applicants.

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2. The applicants' case is that applicant no.1 belongs to general category whereas applicant no.2 belongs to Scheduled caste category. A notification was issued vide DRM (P) letter dated 13.9.2006 to fill up the vacancies against 25 % of inter apprentice quota for JE -II (Electric) in pay scale of Rs. 5000-8000/- . As per notification , three posts were to be filled up. One for general , one for SC and one for OBC category. But four candidates were declared successful , 2 for general, one for SC and one for OBC in the aforesaid result, which was declared on 20.12.2006 (Annexure A-5). But the respondents did not issue the promotion order and did not send for training, both the applicants who were also selected in their respective categories. The applicant made several representations but the respondents did not pay any heed. Finally, an O.A. No. 221/2008 was filed which was decided on 3.6.2008 with an observation that the selection has not proceeded further , as there is a doubt as to whether the reservation for OBC is applicable in such selection. After exercising the powers of judicial review, it was left open for the Railway Administration to first take a decision in the matter. With this observation , the O.A. was finally disposed of by giving a direction to the respondent No.1 i.e. General Manager ,North Eastern Railway, Gorakhpur to clarify this matter within one month from the date of receipt of the copy of this order and the Divisional authority shall finalize the selection within one month thereafter (Annexure A-10). But, instead of passing appropriate orders in accordance with the aforesaid judgment of this Tribunal, the respondents have cancelled the entire selection itself vide impugned order dated 19.1.2009 (Annexure A-1) . Hence this O.A.

3. This O.A. has been contested by filing a detailed counter reply, saying that in furtherance of the aforesaid order of the Tribunal, a clarification was issued by the Railway Board vide letter dated 11.12.2008 (CR-1) to the effect that the reservation for OBCs in the selection of intermediate apprentice is not applicable. After receiving the aforesaid



clarification, the impugned order dated 19.1.2009 was issued and selection was cancelled.

4. A Rejoinder Reply has also been filed reiterating almost all the pleadings contained in the O.A.

5. A Supplementary Counter Reply has also been filed saying that the impugned order dated 19.1.2009 has been passed which was duly approved by the Railway Board as well as General Manager of the concerned Railway (but no such order has been brought on record). It has been also said that only four candidates were declared successful in the written examination. That the written examination is the first stage of selection of the process and before further selection could have taken place, the entire process of selection was cancelled. In para 11, it has been again specifically pleaded that the cancellation of selection process has been done after the approval of the competent authority.

6. Heard the arguments advanced from both the sides and perused the material on record.

7. At the out set, in the back drop of the order of this Tribunal dated 3.6.2008, it is worthwhile to mention that there was some inhibition in the mind of the respondents themselves due to which the selection could not be proceeded further as there was a doubt in respect of reservation of OBC in such selection. Therefore, the Railway Administration was directed to take a decision in the matter within one month. Simultaneously, it was also desired that the Divisional authority shall finalise the selection within one month thereafter. In furtherance of this order, a clarification was indeed sought. In reply to which, The Railway Board clarified vide letter dated 11.12.2008 that reservation for OBCs in the selection of intermediate apprentice is not applicable. Thereafter, the respondents ought to have acted upon to finalize the selection within one month as per above direction of this Tribunal. But instead of finalizing the selection, they have cancelled the notification dated 13.9.2006 itself by means of which options were invited. It may be mentioned here that after

inviting of the options, four candidates were declared successful vide memorandum dated 20.12.2006 (Annexure A-5) including both the applicants at Sl.No. 1 and 2. But on account of the cancellation of this memorandum dated 13.9.2009, this result/ memorandum dated 20.12.2006 has been made redundant. As said above, after seeking the aforesaid clarification, the respondents were supposed to finalize the selection within one month in accordance with the orders of this Tribunal dated 3.6.2008 passed in O.A. No.221/2008. But instead of finalizing the selection, they have cancelled the notification /advertisement itself in an arbitrary manner and against the above direction of this Tribunal. Therefore, we have no other option but to set aside the impugned order dated 19.1.2009 (Annexure A-1) and accordingly it is so ordered. Reiterating the earlier direction of this Tribunal contained in the aforesaid order dated 3.6.2008, the respondents are directed to finalize the selection within one month from today, in pursuance of notification dated 13.9.2006. No order as to costs.

S.P.Singh
14.12.11
(S.P.Singh)
Member (A)

Alok Kumar Singh
(Justice Alok Kumar Singh) 14.12.11
Member (J)

HLS/-