

Central Administrative Tribunal

Lucknow Bench, Lucknow

Original Application No. 234/2012

(Reserved on 28.4.2014)

Pronounced on 30th May, 2014

Hon'ble Ms. Jayati Chandra, Member (A)

Hon'ble Dr. Murtaza Ali, Member (J)

1. Akilesh Kumar Singh son of Sri Ram Pukar Singh resident of House no. 43, Gali No. 3, Bajrang Nagar, Lucknow.
2. Girja Shankar Srivastava son of late Shiv Poojan Lal Srivastava, resident of LD -48 A, Shantipuram Colony, Alambagh, Lucknow.
3. Anoop Kumar Mishra son of Sri A.N. Mishra, resident of LD-III 36, B Running Shed Colony, Alambagh, Lucknow.
4. Sampurna Nand Mishra son of late Bajrangbali Mishra, resident of 953 Kha, Manas Nagar, Lucknow.
5. Sushil Kumar II son of Heeramani Prasad, resident of 965 Khan Manas Nagar, Lucknow.
6. Anil Kumar Pandey son of Sri M.V. Pandey resident of Railway Quarter No. III, 38 E, Diesel Colony, Alambagh, Lucknow.
7. Rajesh Shankar Srivastava son of late Vishnu Shankar Srivastava, resident of 210/2, Babarchi Tola, Chowk, Lucknow.

.....Applicants

By Advocate: Sri S. Mishra

Versus

1. Sri Ajay Prakash Gaur, son of Sri Suresh Chandra Gaur resident of 551 Ka/188, Om Nagar, Alam Nagar, Alambagh, Lucknow.
2. Sri Sanjay Kumar Gupta son of Sri B.P. Gupta, (No. 1 and 2 are posted under Senior Section Engineer (Loco) (NR) Alambagh, Lucknow.
3. Sri Chandra Prakash son of late Lal Man
4. Sri U.S.P. Vishvakarma son of Sri H.P. Vishwakarma
5. Sri Balveer Singh son of Sri B.P. Singh
6. Sri Gopal Srivastava son of Sri S.N. Prasad

7. Sri Ratan Kumar son of Sri S.N. Prasad
8. Sri Vinod Kumar son of Prem Chand
(No. 3 to 8 are posted under Senior Section Engineer (Loco) (NR) Alambagh, Lucknow.
9. Sri P.C. Prasad son of Sri Laxmi Prasad
10. Sri D.K. Singh son of Sri R.K. Singh
11. Sri Surendra Ram son of Sri K. Ram
12. Sri Ajaj Kumar Maurya son of Sri S.P. Maurya
(No. 9 to 12 are posted under Chief Crew Controller (Loco) NR), Raebareli.
13. Sri Anil Kumar Shukla, son of Sri V.P. Shukla
14. Sri Lalita Prasad son of Sri D.P. Yadav
(No. 13 and 14 are posted under Chief Crew Controller (Loco) (NR), Pratapgarh.
15. Sri Om Prakash son of Sri Prayey Lal
16. Sri Sadhu Saran son of Sri Jokhu Ram
17. Sri Bhajman Lama son of Sri P.B. Lama
18. Sri B.S. Meena son of Sri C.L. Meena
(No. 15 and 18 are posted under Senior Section Engineer (Loco) (NR), Varanasi
19. Union of India through General Manager, Northern Railway, Baroda House, New Delhi.
20. Divisional Railway Manager, Northern Railway, Lucknow.
21. Senior Divisional Personnel Officer, Northern Railway, Lucknow.
22. Senior Divisional Mechanical Engineering (O&F), Northern Railway, Lucknow.

....Respondents.

By Advocate: Sri S. Verma, Sri Praveen Kumar and Sri Ganesh Gupta.

ORDER

By Dr. Murtaza Ali, Member (J)

The present Original Application has been filed under Section 19 of the Administrative Tribunal Act, 1985 for seeking following reliefs:-

- i) That the Hon'ble Tribunal may graciously be pleased to set aside select panel dated 27.3.2012 pertaining to the post of Loco Inspector Grade 9300-34800 issued by the Divisional Railway Manager, Northern Railway.

- ii) To hold a fresh selection for the post of Loco Inspector by screening under printed Screen 11528.
- iii) The cost of the application may also be awarded to the applicant as against the respondents.
- iv) Any other relief which this Hon'ble Tribunal may deem fit, just and proper under the circumstances of the case and in the interest of justice be also passed in favour of the applicant."

2. The brief facts of the case are that the applicants were initially appointed as Diesel Assistant (now known as Assistant Loco Pilot) and they were promoted to the post of Drivers. It has been stated that a notification dated 1.11.2010 was issued by respondent No. 4 inviting applications for the post of Loco Inspectors from the candidates who are working as Loco Pilot and have gained 75000/- Kms of actual running experience on trains with certain other conditions as enumerated in (P.S.No.13568). It has been stated that the petitioners applied for the said posts. The respondents issued a notification dated 25.10.2011 in respect of eligible candidates, in which the name of respondent No. 1 was placed at Sl. No. 12, although he did not fulfill the criteria as required of printed Sl. No. 11528 and 11915. The applicants raised objections and the respondents stayed the proposed examination vide order dated 18.11.2011. After considering objections raised by the applicants and other candidates, the name of Respondent No.1 was excluded from the eligibility list. The Respondents No. 1 filed O.A. No. 70/2012 (Ajay Prakash Gaur Vs. UOI and others) and the said O.A. was disposed of by this Tribunal on 13.2.2012 on the basis of statement made by Sri S. Verma, counsel for official respondents who stated before the Tribunal that he is eligible for the reasons that he is working on the post of

Power/Crew Controller. It has been stated that the selection of Respondent No.1 has been made on the basis of judgment and order passed by this Tribunal. The written test was held on 14/2/2012, 18/2/2012 and 22/2/2012. The result was declared by the Department on 2.3.2012 and a list of selected candidates was issued vide office order dated 27.3.2012 in which 18 candidates were declared passed. It has been stated that the Respondent No.1 Sri Ajay Prakash Gaur and Respondent No.2 Sri Sanjay Kumar Gupta were selected although they have not gained the required running experience of 75000 Kms. which is against the prescribed procedure for holding selection in question.

3. In the Counter Reply filed on behalf of Respondent No. 1, it has been submitted that he was initially appointed as Diesel Assistant on 26.2.1990 and he was promoted on the post of Driver on 4.12.2004 and further promoted on the post of Loco Pilot in October, 2010 and he has been discharging the duties attached to the post of Power/Crew Controller in the running cadre in the administrative exigency since March 1992. It has been stated that in pursuance of notification dated 1.11.2010, he applied for the post of Loco Inspector and he was found eligible for participating in the examination and his name was at Sl.No.12 in the notification issued on 25.10.2011 but the authorities issued an order dated 18.11.2011 staying the examination till further order and issued a revised list of eligible candidates on 23.1.2012 in which his name was excluded without any reason. Aggrieved with such order dated 23.1.2012, he made a representation to the respondents on 3.2.2012 indicating

therein that he possessed all the requisite qualification and experience for appearing in the said examination and also filed O.A. No. 70/2012. On the basis of the orders of the Tribunal, the authorities included his name in the eligibility list. He participated in the examination and was declared successful and accordingly promoted on the post of Loco Inspector. It has been stated that he could not complete 75000 Foot Plate due to posting on the post of Power/Crew Controller without additional benefits and had he been allowed to discharge his normal duties on the post of Loco Pilot, he would have completed requisite foot plate experience. As his services were utilized in the administrative exigency, therefore, in order to save such staff from deprivation of their rights, a provision in para 4 of P.S. No. 13568 was inserted. It has been stated that RBE No. 51/2009 clearly states that incumbents posted on the post of Power/ Crew Controller are to be allowed to participate in the examination but they would get promotion on being declared successful only after completion of 75000 footplate experience.

4. In the Counter reply filed on behalf of Respondents No. 2,3,4,6, 16 and 17, it has been stated that in pursuance of notification dated 1.11.2010, they applied for the post of Loco Inspector and were allowed to appear in the examination. It has been submitted that the applicants had also appeared in the said examination and when they were declared unsuccessful, they challenged the aforesaid selection on the basis of baseless and false ground and there is no irregularity and infirmity in the selection for the post of Loco Inspector.



5. In the Counter reply filed on behalf of the official respondents No. 19 to 22, it has been stated that the post of Loco Inspector is a selection post in pay band Rs. 9300-34800 , Grade Pay Rs. 4600/- and the process of selection of 18 existing vacancies was started by issuing a notification on 1.11.2010. In pursuance of such notification, 135 application were received through various units and 132 candidates were found eligible and were allowed to appear in the selection vide letter dated 23.1.2012. It has been stated that some names of eligible staff whose services were being utilized in the interest of Railways and who could not complete 75000 kms actual driving experience were erroneously excluded. It has been submitted that Respondent No.1 Ajay Prakash Gaur and Respondent No. 2 Sri Sanjay Kumar Gupta were eligible for appearing in the selection for promotion on the post of Loco Inspector and they were screened under P.S. No.11528 which provides eligibility of Power/Crew Controller/Loco Inspectors . It has been stated that the Railway Board's letter dated 26.3.2009 (RBE No. 51/2009) circulated vide Northern Railway Printed Sl.No. 13568 has been followed in the selection to the post of Loco Inspector. It has also been stated that it was informed by Branch Office vide his letter dated 18.2.2012 that the services of Sri Ajay Prakash Gaur were being utilized in the interest of Railway Administration and the Tribunal was pleased to dispose of O.A. No.70/2012 filed by Sri Ajay Prakash Gaur accordingly. It has also been stated that a letter dated 28.9.2010 was issued to fill up the vacant posts of Power/Crew Controller in accordance with Northern

Railway Printed Sl. No. 11528 and 11915 and not for the selection to the post of Loco Inspector and the applicants are trying to confuse between filling up the post of Power/ Crew Controller and selection for the post of Loco Inspector. It has been stated that Northern Railway Printed Sl.No. 11528 does not lay down any condition for working experience (foot plate experience) of 75000 kms and other Northern Railway printed Sl. No. 11915 also does not contain any such condition. Subsequently, Northern Railway printed Sl. No.13568 (RBE No.51/2009), however stipulates the condition of 75000 kms. of actual running experience for the Loco Drivers (Loco Pilots) for being appearing to perform the duties of Power/ Crew Controllers not having 75000 kms actual running experience being eligible to be considered for the post of Loco Inspector.

6. Rest of the respondents, except Respondent No.11, have adopted the counter reply filed by Respondent No. 1. No Counter Reply has been filed on behalf of Respondent No.11.
7. Heard the learned counsel for the parties and perused the record.
8. Learned counsel for the applicant has submitted that the Respondent No.1 Sri Ajai Prakash Gaur, Loco Pilot (Passenger) and Respondent No.2 Sri Sanjay Kumar Gupta, Loco Pilot (Mail) are not eligible as per official circular dated 28.09.2010 (P.S.No.11528), which determines the eligibility of Power/Crew Controller/Loco

Inspector but they have been wrongly selected vide impugned order dated 27.3.2012.

9. It has been also contended that Respondent No.1 and 2, who have not completed 75000 K.Ms. actual running experience, have been selected for the post of Loco Inspector whereas the applicants, who have completed 75000/- K.Ms. actual running experience, were not selected for Loco Inspector.

10. It has been argued on behalf of the applicants that the Respondent No.1 & 2 were not screened under P.S. No.11528 for the post of Power/Crew Controller which requires 75000 km of actual running experience and the counsel for official respondents has given wrong statement in O.A.No.70/2012 that Respondent No.1 is working on the post of Power/Crew Controller and eligible for appearing in the examination for selection of Loco Inspector.

11. The learned counsel for the respondents has refuted the said allegations and submitted that the Respondent No.1 and 2 have rightly been selected for the post of Loco Inspector. Since they could not acquire the required running experience of 75000 kms due to requisition on the post of Power/ Crew Controller in the administrative exigency, they were allowed to participate in the said examination in view of the Circular RBE No.51/2009 but, they would get actual promotion on being completion of 75000 kms Foot Plate in the light of para-4 of RBE No.51/2009 (PS.No.13568) which reads as under:-

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“Existing running staff, posted as Power/Crew Controllers, who are not medically decategorised and who do not have the requisite 75000 Kms of actual driving experience, will also be eligible to be considered for the post of Loco Inspector, with the proviso that the shortfall will have to be made good by them by being deployed on footplate duties, prior to their being actually posted to work as Loco Inspector.”

12. It has also been contended that the original circulars dated 25.11.1992 and 09.1.1998 have already been modified by the said circular, which clearly states that the incumbents posted at the post of Power/ Crew Controller are to be allowed to participate in the examination of Loco Inspector but they would get promotion on being declared successful only after completion of 75000/- kms Foot Plates. It has also been submitted that RBE No.51/2009 circulated vide Printed Serial No.13568 has been followed in the selection to the post of Loco Inspector. As the services of Respondent No.1 and 2 were being utilized on the post of Power/Crew Controller in the interest of railway administration and the Tribunal has also passed an order in O.A.No.70/2012 filed by Ajay Prakash Gaur accordingly. There is no illegality in the appointment of Respondent No.1 and 2. It has also been clarified that Printed Serial No.11528 and 11915 are not meant for selection to the post of Loco Inspector and the applicants are trying to confuse between filling of the post of Power /Crew Controller and selection for the post of Loco Inspector.

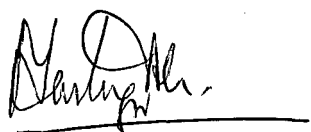
13. It has also been contended that the applicants have already participated in the said examination and did not

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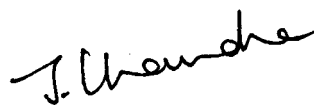
challenge the order dated 13.2.2012 passed in O.A.No.70/2012 and after being declared unsuccessful, they are barred from challenging the said selection.

14. Having considered the rival submissions made by the learned counsel for the parties, we are of the view that the Respondent No.1 and 2, who were originally appointed on the post of Diesel Assistant (now known as Assistant Loco Pilot) and promoted on the post of Driver and further promoted on the post of Loco Pilot but could not complete the running experience of 75000 kms, due to the fact that their services were required by the department in administrative exigencies on the post of Power/Crew Controller, were eligible to be considered for the post of Loco Inspectors. RBE No.51/2009 (P.S. No.13568) clearly provides that those Power/ Crew Controllers, who could not acquire 75000 kms actual running experience are eligible to the post of Loco Inspector but they would get the promotion only when they complete actual running experience of 75000 kms.

15. In view of the above, we do not find any illegality in the impugned Select Panel dated 27.3.2012 and the OA has devoid of any merit and is accordingly dismissed. There is no order as to costs.



(Dr. Murtaza Ali)
Member (J)



(Ms. Jayati Chandra)
Member (A)