

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
LUCKNOW BENCH, LUCKNOW

Original Application No. 380 of 1991

this the 17/5 day of May '2000

HON'BLE MR. D.V.R.S.G. DATTATREYULU, MEMBER (J)  
HON'BLE MR S. MANICKAVASAGAM, MEMBER (A)

R.K. Singh

...

Applicant

Versus

Union of India & others

..

Respondents

None is Advocate for the Applicant

None is Advocate for the Respondents

O R D E R

D.V.R.S.G. DATTATREYULU, MEMBER (J)

The applicant in this case prays to quash the impugned orders dated 3.9.91 and 25.2.91 and for direction to the respondent nos 2 & 3 to comply with the order dated 27.2.91 and transfer the respondent no.4 to Trains Branch and for staying the holding of the examination scheduled to be held on 19.9.91 for selecting the Asstt. Office Supdt.

2. According to the applicant, the respondent no.4 was working as Senior Clerk in the Trains Branch against the existing vacancy. He was subsequently absorbed in the said branch. On account of influence with the official, he was promoted and joined as Senior Clerk in the Signal and Telecom Branch violating the orders dated 27.2.97. It was objected by the ~~juniors~~ and also by the applicant for the selection to the post of Asstt. Supdt from the Branch where the respondent no.4 was working. The applicant made a representation, but it was not disposed of. The department conducted a written test for the post of Asstt. Supdt to be held on 19.9.91. The respondent no.4 was secretly appointed to the post of Asstt. Supdt, which is not correct, hence this application.

3. In the Counter filed on behalf of the respondents, it is stated that the respondent no.4 was taken to the present post as per rules. The appointment of the respondent no.4 was made by the Divisional Railway Officer under Annexure R-2 and the said appointment is after the screening committee's recommendations. The placement is done on the basis of the requirement and suitability. Firstly, he was taken to transport branch, but he was again posted in the Signal and Telecom Branch as Clerk as per the railway board's circular. The representation made by the petitioner and others was considered and communicated to all the persons, who made the representation stating that no action need be taken on the representation as the respondent no.4 was appointed as per rules. The lengthy reply was filed, which need not be considered in extenso. Finally the written test for selection for the post of Asstt. Supdt. was scheduled to be held on 19.9.91 at 11.00 hours. The respondent no.4 was also allowed to appear alongwith the petitioner and other candidates. He was rightly allowed to participate. It is also stated that the petitioner through his union agitated the matter before the Labour Court in case no. 84/87 under the Industrial Disputes Act. The petitioner has not mentioned this fact in his application. Lastly, it is stated that the application has to be dismissed.

4. The point for consideration is whether the applicant is entitled for any relief or not ?

5. Though, the applicant has filed a lengthy Rejoinder, the official counter shows that the applicant and the union were simultaneously proceedings in the Labour Court regarding the same dispute and that is being contested by the respondents. Nothing is brought-out to our notice what happened to this litigation. Both the parties were not present at the time of hearing. As this is a case of the year 1991, we have perused the pleadings on record. Therefore, on this point of matter

being agitated simultaneously in the Labour Court as well as in the Tribunal, the applicant cannot seek any relief <sup>from</sup> to this Tribunal. The applicant is at liberty to file a fresh petition taking all the ~~efforts~~ <sup>ways</sup> available under law if he so chooses by stating what happened to the cause which were pending before the Labour Court. Reply itself shows that the respondent no. 4 was allowed to appear in the examination the Tribunal has not stayed the examination, but only passed an interim order stating that the result of the respondent no.4 shall not be published. Hence, as per the discussions made above, there are no merits in the application and the same is accordingly dismissed. The interim orders passed on 18.9.91 is hereby vacated. No costs.

Girish  
MEMBER (A)

1715  
MEMBER (J)

LUCKNOW DATED: 17-5-2000  
GIRISH/-