

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

Original Application No. 286 of 2006

This the 14th day of November, 2011

**Hon'ble Mr. Justice Alok K Singh, Member-J
Hon'ble Mr. S.P. Singh, Member-A**

R.K. Saxena, Aged about 59 years, S/o late Sri B.S. Saxena, R/o 11/171-A Munawar Bagh Railway Colony, Lucknow presently working as Office Supdt. -I (scale 6500-10500) in the office of DRM. N. Railway, Lucknow (since died)

1/1 Smt. Kiran Saxena, Aged about 55 years, Widow of late Sri R.K. Saxena.

1/2 Sri Shailendra Saxena, Aged about 31 years, S/o late Sri R.K. Saxena.

1/3 Sri Amit Saxena, Aged about 29 years, S/o S/o late Sri R.K. Saxena.

¼ Rakesh Saxena, Aged about 24 years, S/o late Sri R.K. Saxena

All residents of MD 1/80, Sector D-1, LDA Colony, Kanpur Raod, Lucknow.

.....Applicants

By Advocate : Sri SMS Saxena

Versus.

1. Union of India through General Manager, N.R., Baroda House, New Delhi.
2. DRM, NR., DRM Office, Hazratganj, Lucknow.
3. Sr. Divisional Personnel Officer, DRM/N.Rly. office, Hazratganj, Lucknow.

.....Respondents.

By Advocate : Sri S. Verma.



O R D E R (Open Court)

By Justice Alok K Singh, Member-J

This O.A. was filed by late R.K. Saxena for quashing the order dated 10.4.2006 (Annexure-1) and for seeking directions to the respondents to allow the applicant to appear in the selection proceedings which were going to be held on 28.6.2006 for the post of Chief Office Superintendent. It was also requested that he may be promoted w.e.f. 23.8.1995 on the post of Office Superintendent Gr.I when his junior Sri Kaushal Kishore was promoted and arrears of salary & allowances may be directed to be paid. It was further requested that the result in question in respect of said selection held on 28.6.2006 may be declared and if the applicant has been adjudged suitable, his name may be entered in the panel of Chief Office Supdt. and he be promoted accordingly.

2. Perusal of Annexure -1 shows that by means of this letter, the late applicant was informed that on account of pendency of departmental enquiry against him under the relevant Discipline & Appeal Rules, he could not be considered for regular promotion on the post of Supdt. Gr.I in the pay scale of Rs. 6500-10500/- and for the same reason, he could not be considered for promotion to the post of Chief Personnel Supdt.

3. O.A. has been contested by the respondents by filing Counter Reply. In para 6, it has been categorically conceded that the applicant was promoted on adhoc basis on the post of Office Supdt. in the grade of Rs. 6500-10500/-, but he could not be regularized thereafter on the ground of inadvertent clerical mistake in the said letter as contained in Annexure-1, though there was no disciplinary proceedings pending under Railway Servants (Discipline & Appeal) Rules, 1968. It has been further elaborated that infact he could not be regularized on account of CBI case, which was pending before Learned Special Judge Anti Corruption as well as pendency of Criminal Revision no. 572 of 2004 before Hon'ble High Court.

AC

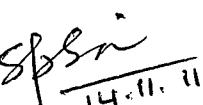
4. We have heard the learned counsel for the parties and have perused the material on record.

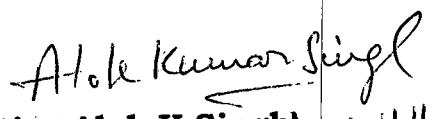
5. At the outset, Sri Verma concedes that after the death of the applicant-R.K. Saxena, both the aforesaid criminal case/ Criminal Revision have stood abated. It is also worthwhile to mention here that after the death of the applicant-late R.K. Saxena, his legal heirs including wife and children have been substituted.

6. Sri Verma also fairly concedes that there is no inhibition in declaring the result of late applicant, who was permitted to appear vide this Tribunal's order dated 27.6.2006 with the rider that his result shall be kept in sealed cover and shall be subject to the outcome of this O.A.

7. Learned counsel for the applicant submits that it would meet the ends of justice if the result of the late applicant, which admittedly has been kept in a sealed envelop, is directed to be opened and the respondents are directed to thereafter act upon in accordance with rules. In other words, if on opening of sealed cover, it is found that the late applicant has passed the selection, then his case may be considered for regularization/promotion in accordance with rules. Learned counsel for other side has no objection as far as this request is concerned.

8. In view of the above, O.A. is allowed. Annexure-1 is hereby quashed. The respondents are directed to declare the result of the late applicant after opening the sealed cover and if it is found that the late applicant has passed the selection, then his case may be considered expeditiously for regularization/promotion from the relevant date, and for giving consequential benefits in accordance with rules. No order as to costs.


14.11.11
(S.P. Singh)
Member-A


14.11.11
(Justice Alok K Singh)
Member-J