

CENTRAL ADMINISTRATIVE TRIBUNAL

PATNA BENCHO.A.NO.: 621OF 2005[Patna, this *Friday*, the 7th Day of January, 2011]C O R A M

HON'BLE MR. JUSTICE ANWAR AHMAD, MEMBER [JUDL.]

HON'BLE MR. A.K.JAIN, MEMBER [ADMN.]

1. Lalan Choudhary, son of Sri Ram Awadhesh Choudhary, resident of village & PO – Bahuara, PS – Dawath, District – Rohtas.
2. K.B.Salahuddin, son of Late Mohammad Ushman, resident of village – Umasipur, PO- Ramazepur, PS- Asthawan, District – Nalanda.
3. Umi Ram, son of Late Sarni Ram, resident of village – Gamracho, PO – Rajapur, PS- Mahishi, District – Saharsa.
4. Arbind Kumar Singh, son of Sri Laxmi Narayan Singh, resident of village + PO – Patelia, PS- Bibhutipur, District – Samastipur.
5. Daya Shankar Pathak, son of Late Din Bandhu Pathak, resident of village – Bathna, PS-Sondhe, PS- Goraul, District -Vaishali.
6. Satyendra Poddar, son of Late Nand Lal Poddar, resident of village – Pachamba, PO-Subridnapur, PS-Begusarai, District – Begusarai.
7. Ainul Haque Ansari, son of Sri Mohammad Habib Ansari, resident of village – Kotwan, PO & PS- Barauli, District-Gopalganj.
8. Bijoy Kumar Pathak, son of Late Sri Mukh Lal Pathak, resident of village & PO- Dharampura, PS-Daudpur, District-Saran.
9. Mohan Prasad Singh, son of Sri Ram Kripal Singh, resident of village & PO – Bathua Buzurg, District – Samastipur.
10. Akhilendra Kumar Mishra, son of Sri B.N.Mishra, resident of village – Baghi, PO & PS-Pokhrera, via – Faraina, District – Saran.
11. Shyam Sunder Choudhary, son of Late Ganga Choudhary, resident of village – Machhua Toli, Amroodi Lane, District-Patna.APPLICANTS.
By Advocate :- Shri D.B.Singh.

Vs.

1. The Union of India through the Chairman, Railway Board, Ministry of Railway, Rail Bhavan, New Delhi.



2. The Director [Establishment], Ministry of Railway, Railway Bhavan, New Delhi.
3. The General Manager, East Central Railway, Hazipur.
4. The General Manager, North Eastern Railway, Gorakhpur.
5. The Chief Personnel Officer, North Eastern Railway, Gorakhpur.
6. The Chief Personnel Officer, East Central Railway, Hazipur.
7. The Divisional Railway Manager [P], East Central Railway, Sonapur.
8. The Divisional Railway Manager [P], North East Railway, Varanasi.
9. Sri B.B.Mal, Guard C/o Station Manager, Gorakhpur, N.E.Railway, Gorakhpur [U.P.].
10. Sri Mahendra Sah, Guard, C/o Station Manager, Jhajha East Central Railway, PO-Jhajha, District – Jhajha.
11. Shri A.K.Gautam, C/o Station Manager, Danapur, E.C.Railway, Danapur.
12. Sri B.R.K.Singh, Guard, C/o Station Manager, Patna Junction, Patna.

.....RESPONDENTS.

By Advocate :- Shri S.K.Singh, ASC.

O R D E R

Justice Anwar Ahmad, M[J] :- This OA has been filed by the applicants, Lalan Choudhary & 10 [Ten] others for the following reliefs :-

"The respondents be directed to implement the order of this Hon'ble Court according to its tenure passed in OA 517/96 dated 08.06.2001 whereby and whereunder this Court held that the applicants are entitled to seniority over those who were below them in order of merit in the result of examination, even though the latter may have been appointed earlier or they may have been appointed-empennelled on the result of the examination and for direction to the respondents to grant consequential benefits to the applicants in terms of the order of this Court and modify the office order no.303-04 dated 27.05.2005 issued by the respondents on different dates."

2. Heard the learned counsel for the applicants and the learned



counsel for the respondents.

3. Thirteen persons, including the applicants, who are Guards [Goods] had earlier filed OA 517 of 1996 for fixation of their seniority w.e.f.1981 or at least from 1986 alleging therein that they were appointed sometime in 1989, 1990, 1991 & 1992 on the basis of a panel of selected candidates for appointment to various Class III posts prepared by the Railway Recruitment Board, Muzaffarpur and the panel was prepared on the basis of the result of written test and viva-voce test which were held in 1980-81. The Tribunal disposed of that OA under its elaborate order [Annexure-1] as under :-

"The reliefs as prayed for cannot be granted on the basis of the inadequate informations furnished to us by the applicants. However, they will be entitled to seniority over those who were below them in the order of merit in the result of the examination, even though the latter may have been appointed earlier or they may have been appointed without being empanelled on the result of the examination. Our observations will not apply to those whose appointments were earlier because of the quota or reservations for the categories to which they belong. There shall be no order as to costs."

4. The respondents filed RA 17 of 2002 and that RA was dismissed vide order dated 24.11.2004[Annexure-2]. Thereafter, the respondents considering the order passed by the Tribunal in OA 517 of 1996 and RA 17 of 2002 and also in compliance of the letter dated 25.01.2005 of the General Manager [P], Gorakhpur, passed the order dated 27.05.2005 [Annexure-4] granting seniority to the applicants from the date 31-10/1-11-88.

5. Learned counsel for the applicants submits that the order dated



27.05.2005 [Annexure-4] passed by the respondents in compliance of the order of the Tribunal in OA 517 of 1996 [Annexure-1] is not in accordance with the directions contained in the order. He submits that this necessitated the applicants to file the present OA which is just for the execution of the order dated 08.06.2001[Annexure-1] passed in OA 517 of 1996 . He submits that the OA be allowed and the respondents be directed to pass the order in accordance with the directions given in the earlier OA 517 of 1996 and, accordingly, to modify the impugned order dated 27.05.2005 [Annexure-4] passed by the respondents.


6. Learned counsel for the respondents submits that the seniority has been granted from the date of publication of the panel and accordingly, the order dated 27.05.2005 [Annexure-4] has rightly been passed by the respondents.

7. Considered the rival submissions made, the order passed by the Tribunal in OA 517 of 1996 [Annexure-1] and the order dated 27.05.2005 [Annexure-4] passed by the respondents in compliance of the aforesaid order of the Tribunal. We are of the view that the order dated 27.05.2005 [Annexure-4] has not been passed by the respondents in accordance with the order passed by the Tribunal in OA 517 of 1996 [Annexure-1].

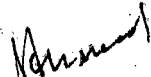
8. In the result, the OA is allowed and the respondents are directed to pass fresh order or modify the order dated 27.05.2005 [Annexure-4] giving seniority to the applicants over those who were below them in the order of merit in the result of the examination even though the latter may have been appointed earlier or they may have been appointed without being



empanelled on the result of the examination. They shall also be entitled to notional pay according to the seniority assigned to them. Respondents shall pass order to this effect within a period of three months from the date of receipt/production of a copy of this order. No order as to costs.



[A.K.Jain]/M[A]



[Anwar Ahmad]/M[J]

skj