

FORM NO. 21

(See rule 114)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,BENCH

OA/TA/RA/CP/MA/PT 102/96 of 20.....

Mahendra Prakash.....Applicant(S)

Versus

U.O.G.....Respondent(S)

INDEX SHEET

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4	Petition with Annexures	11 to 20
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6	C.R. Reg. No 3	29 to 33
7	Rejoinder	34 to 44

Certified that the file is complete in all respects
B.C. file needed & destroy

Signature of S.O.

Signature of Deal. Hand

Funk
25/5/96

2-4-7

CIVIL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

Registration No. 102 of 1989 (i),

APPLICANT(S) M. Prakash

RESPONDENT(S) CCL

	<u>Particulars to be examined</u>	<u>Endorsement as to result of examination</u>
1.	Is the appeal competent ?	Y
2.	a) Is the application in the prescribed form ?	Y
	b) Is the application in paper book form ?	
	c) Have six complete sets of the application been filed ?	
3.	a) Is the appeal in time ?	Y
	b) If not, by how many days it is beyond time ?	
	c) Has sufficient cause for not making the application in time, been filed ?	
4.	Has the document of authorisation/ Tsalakatnama been filed ?	Y
5.	Is the application accompanied by S.D./ Postal Order for Rs.50/-	Y
6.	Has the certified copy/copies of the officer(s) against which the application is made been filed ?	Y
7.	a) Have the copies of the documents relied upon by the applicant and mentioned in the application, been filed ?	Y
	b) Have the documents referred to in (a) above duly attested by a Gazetted Officer and numbered accordingly ?	Y
	c) Are the documents referred to in (a) above neatly typed in double space ?	Y
8.	Has the index of documents been filed and paginated properly ?	Y
9.	Have the chronological details of representation made and the cut come of such representation been indicated in the application ?	Y
10.	Is the matter raised in the application pending before any court of law or any other Bench of Tribunal ?	Y

<u>Particulars to be Examined</u>	<u>Endorsement as to result of examination</u>
11. Are the application/duplicate copy/spare copies signed ?	✓ A
12. Are extra copies of the application with Annexures filed ?	✓ P
a) Identical with the Original ?	
b) Defective ?	
c) Wanting in Annexures	
Nos. _____ pages Nos. _____ ?	
13. Have the file size envelopes bearing full addresses of the respondents been filed ?	✓ C
14. Are the given address the registered address ?	✓ P
15. Do the names of the parties stated in the copies tally with those indicated in the application ?	✓ P
16. Are the translations certified to be true or supported by an Affidavit affirming that they are true ?	✓ P
17. Are the facts of the case mentioned in item no. 6 of the application ?	✓ P
a) Concise ?	
b) Under distinct heads ?	
c) Numbered consecutively ?	
d) Typed in double space on one side of the paper ?	
18. Have the particulars for interim order prayed for indicated with reasons ?	✓ P
19. Whether all the remedies have been exhausted.	✓ P

REMARKS

AII

Brief
OrderBrief Order, Mentioning Reference
if necessaryHow complied
with ~~etc~~
date of
compliance

C. A. 1. 22/90

2-4-90 from J. Nalath, re
from K. J. Fernandes, P.M.

Mr B. P. Srivastava, for Applicant

Give notice - hist for
orders as well as admission
order on 16.4.90.

The C.P. will explain how
names of officers B-1, are
included in Annexure -1
dated 26.3.90. similarly were
not included in Annexure A-2
dated 8.3.90.

No appointment/ promotion
shall be made till that
date, in pursuance of intimation
call contained in Annexure -1.

The C.P. will also produce
the record on that date.

J.S.R.

AM.

P.C.

noticed
or
G.O.

C.R.

Notices
issued on 4.
Neither
nor any un
exp. case
been taken
down.
S. F. P.

4.9.90. No setting of adjourn to 12.11.90

C.

Dinesh

CA 1.2.3
11/1R.H. filed
today

4.9.90

Serial number of order and date	Brief Order, Mentioning Reference if necessary	How complied with and date of compliance
4.990	No stay way to 12/11/90	OK
<u>12/11/90</u>	Honble Mr. Justice K. Mathi VC Honble Mr. M. G. Bickha, A.M.	CA/RA have been served S.F.H 11/11/90
<u>10.12.90</u>	On the request of Shri Gulabdasji, Counsel for respondents, it is so ordered.	OK
<u>11.12.90</u>	Hon. Mr. Justice K. Mathi VC Hon. Mr. K. Obayya, A.M. Put up tomorrow for final hearing	OK OK
	Hon. Mr. Justice K. Mathi VC Hon. Mr. K. Obayya, A.M. Put up tomorrow	OK OK

(A13)

CENTRAL ADMINISTRATIVE TRIBUNAL

CIRCUIT BENCH, LUCKNOW.

Mr. Prakash ... Applicant. O.A. No. 102/90
Versus
Union of India & Others .. Respondents.

13.12.1990

Hon. Mr. Justice K. Nath, V.C.

Hon. Mr. K. Obayya, Member (A)

Shri G. Kalwani for the applicant and
Shri T.N. Gaffar
Shri Anil Srivastava for the respondents are present.

Two questions have arisen at this stage.

Firstly, the interpretation of the modification order dated 16.4.90 is to be given. In the interim order dated 2.4.90 orders were made that no appointment/promotion shall be made till the date fixed in pursuance of the interview call as contained in Annexure-I. When this matter came up before the Bench on 16.4.90, orders were passed that the respondents "may proceed to declare the results, except for one post which shall remain unfilled till the decision of the Tribunal". This clarification is being interpreted to signify two hurdles, namely not to declare the results of one post and to keep that one post unfilled. That is not the intention of the order. The intention as apparent from the order of 2.4.90 was only to stop appointment/promotion and not to stop the declaration of the results. By order dated 16.4.90, the Bench reiterated that results may be declared; only appointment of one of the posts was required not to be made. We therefore clarify that only one post shall be kept unfilled while all the results may be declared.

The second point arises out of two applications dated 10.12.90 by the applicant, and dt. 5/10.12.90 by respondent No. 3 alongwith which a selection examination notice dated 20.11.90 is enclosed. It appears that by this notice 34 persons have been called to take a written test to be followed by an interview in which the applicant and respondent No. 3 are also to appear. The prayer made in these two applications is that the Department be directed not to hold a fresh written test and interview in pursuance of the notice dated 20.11.90. We have heard the learned counsel for the parties and we are of the opinion that the proposed examination under notice dated 20.11.90

4.4.91 -

Hon. Mr. Justice R. Mathew VC
Hon. Mr. A. B. Gertu AM

414
B6

Put up tomorrow

J
AM.

J
VC

Hon. Mr. Justice R. Mathew VC
Hon. Mr. A. B. Gertu AM.

Argument heard Judgment
Reserved

J
AM.

J
VC

Received copy
B.N.M.
7/6/91

Send copy of judgment

R. Mathew

2/8/91

Received copy of
Order dated 6/5/91

M. R. S.
16/5/91
Applicant

Received open, unsealed
Official record
and given to
R. Mathew
23/5/91

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD

Q.A. No. 100
T.A. No.

199 C(1)

DATE OF DECISION 06/08/1991

M. Motilal Nehru Petitioner

S. S. Chatterjee Advocate for the Petitioner(s)
Versus

Union of India and Other Respondent

S. S. Chatterjee Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. Justice K. N. Singh, V.C.

The Hon'ble Mr. A. B. Chatterjee, A. J.

1. Whether Reporters of local papers may be allowed to see the judgment ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgment ?
4. Whether to be circulated to all other Benches ?

.....

Chanshyam/

(A27)

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH
(LUCKNOW BENCH)

....

Registration O.A. No. 102 of 1990 (L)

Mahendra Prakash Applicant

vs

Union of India through Chief
Workshop Manager, Loco Workshop,
Charbagh, Lucknow and others ... Respondents

Hon'ble Justice K. Nath, V.C.

Hon'ble Mr A.B. Gorthi, A.M.

(By Hon'ble Mr. A.B. Gorthi, A.M.)

In this application under section 19 of the Administrative Tribunals Act 1985, Sri Mahendra Prakash, the applicant alleges that while only 4 candidates including himself qualified at a written test held on 15-12-1989 for promotion from Head Clerk to Assistant Superintendent, respondents no. 3 and 4 were being illegally called for the interview alongwith the successful candidates. The applicant seeks our intervention to prevent this injustice to him. Subsequent to the filing of this application, the viva-voce also was held and the results finalised.

2. The applicant, a Head Clerk in Loco Workshop Lucknow appeared for a written examination held on 15-12-89 for promotion to the selection post of Assistant Superintendent (non-personnel) in the grade of Rs.1600 - 2060. 18 candidates were called, 15 appeared and 4 including the applicant qualified there at. Sri Jieut Bundhan (Respondent no.3) and Shri Ram Gopal (Respondent No.4) also took the written test, but did not secure the minimum qualifying marks i.e. 60%. So initially, only the 4 successful candidates were called for the

Handwritten signature

interview scheduled to be held on 16-3-1990, but it was postponed to 31-3-1990 when respondents no. 3 and 4 were also interviewed.

3. Admittedly, the applicant and respondents no. 3 and 4 belong~~ing~~ to Scheduled Caste (S.C. for short) community. Pass percentage for general candidates was 60%, but for S.C. candidates it was 10 out of 35 marks. This latter aspect, as stated by the Railway Authorities (Respondents no. 1 and 2), was in-advertently glossed over when the result of the written test was declared. Later on, realising that respondents no. 3 and 4 scored more than 10 out of 35 marks, they too were considered as having passed in the written test and called for the interview.

4. As per instructions of the Railway Board (Annexure-CA-I and CA-2) a general candidate must obtain 30 out of 50 marks in professional ability, and the marks allotted for written examination should not be less than 35. As the applicant cast certain doubts on the fairness of the test conducted, we called for the official record. It is seen that in this particular examination, the division of marks was as shown below:

(a)	written examination	-	35
(b)	viva-voce	-	15
(c)	Leadership etc.	-	20
(d)	record of service	-	15
(e)	Seniority	-	<u>15</u>
Total:			100

initials

5. In the written examination held on 15-12-79, the applicant secured 21 marks (i.e. 60%). The respondents no. 3 and 4 scored 13 and 12 marks respectively. Initially the applicant was among the successful candidates, as he scored 60% marks, but later on based on Railway Board's policy instructions, respondents no. 3 and 4 who scored more than 10 marks out of 35 were also declared successful and called for interview.

6. During the course of the hearing, the fairness of the conduct of the examination was assailed by the applicant making an issue of certain minor over-writings in the marks recorded ⁱⁿ ~~and~~ the correctness of the allotment of marks under various heads in the test proceedings drawn by the Board of Officers. We, therefore, called a member of the Board, Shri Hemant Kumar, Deputy C.M.E. (Workshop) and recorded his deposition, giving opportunity to both the counsel to question him. Consequently, ⁱⁿ ~~than~~ we are more satisfied that there was no irregularity in the conduct of the examination, both written and oral, as also in the record of the marks allotted to each candidate. The question of inter se seniority between the applicant and respondent no.3 was also raised, ⁱⁿ ~~and~~ resolved in favour of respondent no.3, as the applicant came on a compassionate posting accepting bottom line seniority. The marks allotted for seniority to each candidate were also thus in order. The over writing found in a couple of places in the final Board's proceedings, cannot be faulted as marks tallied correctly with the average of marks allotted by each of the 3 members of the Board. The final result in which the applicant and respondent no.3 have been shown as 'passed' and respondent no.4 as 'failed' seems to us to be sufficiently in order. As there

Amisgds

was only one vacancy in S.C. Category and respondent no. 3 being senior to the applicant, the former was correctly recommended to be empanelled for promotion to the post of Assistant Superintendent (non-personnel). We, therefore, dismiss the application and vacate the interim orders passed in the case.

7. Suspension and unfounded fears seem to have driven the applicant to rush to this Tribunal with wild accusations of corruption and unfairness. We would have, therefore, made an order as to costs against the applicant, but have refrained from doing so bearing in mind the financial status of the applicant.

Amarsi
MEMBER (A)

Ch
VICE CHAIRMAN

(sns)

*May
April 66, 1991.*

Allahabad.

To,

The Deputy Registrar,
Central Administrative Tribunal,
Circuit Bench,
Lucknow.

Subject :- Return of the official records pertaining
to the case OA No. 102/90(L); Mahendra Prakash vs UOI
decided on 6-5-91.

Dear Sir,

At the time of final hearing of the aforesaid
case, on the instructions of the Hon'ble Tribunal, I have
filed the official records also, pertaining to the said
case.

Since now, the case has been decided hence the

aforesaid official record may be returned to me.

This case has been decided

on 6-5-91. Without seal

Thanking You,

Dear official records

is returnable.

Lucknow,

20/5/91

Yours faithfully,

dated 14-5-91 Nov
20

Shri Srivastava

(MR. SRIVASTAVA)

ADVOCATE

Office

Se

20/5

Received official
records in
Shri Srivastava
H&H
23/5/91

Before the Central Administrative Tribunal,
Lucknow Branch : at Lucknow.

—
Petition No. 103/90 (2)

Mahendra Prakash. . .

Petitioner

Vs.

Union of India and 3 others . . .

Opp. Parties

-0-0-0-0-0-0-
(INDEX)

Sl. No. Particulars (Page No.)

1. Petition . . . 1005

2. Annexure No. 1 . . . 6

3. Annexure No. 2 . . . 7 - 9

filed today. Power.

Skw

2/4/90

Lucknow, dated

2/4/1990

R. K. Srivastava
Advocate,

Counsel for the Petitioner

filed today
2/4/90

(A31)

Before the Central Administrative Tribunal,
Lucknow Branch :: at Lucknow.

Case No. 102 of 1990 (L)

Mahendra Prakash aged about 37 years s/o.
Late Sri Ganga Ram r/o, Vegetable Ground
No. 48/A, Alambagh, Lucknow at present,
working as Head Clerk (L.M.W.) Loco Work
shop, Charbagh, Lucknow.

... C/ Petitioner

Vs.

1. Union of India through Chief Workshop Manager, Loco Workshop Charbagh, Lucknow.
2. Dy. C.M.E. Loco Workshop, Charbagh, Lucknow.
3. Joti Bandhan s/o not known Head Clerk, Time-Office, Loco Workshop, Charbagh, Lucknow.
4. Ram Gopal Head Clerk Foundry Loco Workshop, Charbagh, Lucknow.

... vs. Respondents

.....

2.

Details of applicant: Mahendra Prakash

Name of father .. Sri Late Ganga Ram

Age of applicant .. 37 years

Designation & Particulars of officer with name & status (R/o. V.G. 48-A at Alambagh Lucknow, is in his employment, working and (working as Head Clerk last resided; (Loco Workshop, Charbagh Lucknow.

Official address: L.M.S. Loco Workshop Charbagh, Lucknow.

Address of service: Head Clerk, L.M.S. Loco Workshop Charbagh, Lucknow.

Particulars of order against which application is made: Letter No. 314-E/SEIN/ Eon P/A.d. dt. 26.3.90

Interview, date in Chamber of D.G.M.E. (W) Charbagh, Lucknow. 31.3.1990

Q. The order passed by: C.W.M. Charbagh, Lucknow.

Subject in brief: Respondent no. 3 and 4 have been called on in Interview without having ^{passed} ~~pass~~ the written test.

.....

The humble petitioner respectfully begs to submit as under :~

1. That the Hon'ble Tribunal has got jurisdiction to decide the case.

Mahendra Prakash

3.

2. That, the applicant declares that subject-matters of the order adduced, is without the jurisdiction of the Hon'ble Central Tribunal.
3. Limitation-- The applicant further declares that the application is within limitation as prescribed u/s. 21 of the Central Administrative Tribunal of 1985.

Facts of the case are given below:

1. That, a written test for the post of Assistant Superintendent was held on 15.12.89 in the office of Loco-Workshop Charbagh, Lucknow.
2. That, out of 18 persons in the written tests only 4 persons were declared successful in the written test of Asstt. Superintendent held in December, 1989; namely, 1. G.K. Dixit, 2. R.P. Srivastava, 3. U.S. Shukla, and applicant.
3. That, thereafter one month, two other failed candidates viz. respondents nos. 3 and 4 have been called in interview illegally by Chief-Workshop Manager, Charbagh, Lucknow vide its letter no. 314-E/SEIN/Mcn. P/A.S. dt. 26.3.90.

Mahendra Rakesh

and interview dt. 31.3.90 the copy of same is being filed herewith as Annexure-1.

4. That the copy of the order by which, four men ~~RECEIVED~~ were qualified is being filed herewith as Annexure-2 vide letter no. 314-~~4~~/IV dated 27.2.90.
5. That, respondents 1 and 2 have illegally been called for interview, the respondent no. 3 and 4
6. That the order calling the respondents 3 and 4 for interview is arbitrary and without the jurisdiction.
7. That, the respondents 1 and 2 have exercised which are not vested in them, for calling the interview ~~RECEIVED~~ to those persons who have been failed in written tests.
8. Details of remedy.. There is no speedy remedy. No petition has been filed before the Hon'ble Tribunal.
9. Relief sought : Four number of persons inclusive applicant for following reliefs:

Mahendra P. Keshi

A3(5)

5.

- i) That this Hon'ble Tribunal be pleased to quash impugned order dt. 31.3.90 as contained in Annexure- A to this petition.
- ii) That opp. parties 3 and 4 will be declared passed in interview, the petitioner will suffer irreparable loss, they will work on the same post as they are working at present ;
- iii) That this Hon'ble Tribunal be pleased to issue another suitable order as may deem fit, and an interim order, if any, be passed for ;
- iv) that this Hon'ble Tribunal be pleased to ^{Quash} stay the impugned order dt. 31.3.90 contained in Annexure- B to the present may be ^{Quashed} ~~Annexure- B~~ List of Enclosures.. Result of written test, Annex. 2 and Impugned order dt. 26.3.90 contained in Annex. 1.

Lucknow dated
2/4/90

Mahendra Rakesh
Petitioner/Applicant

Through:

B. C. Verma
Advocate,
Counsel for the Petitioner

Mahendra Rakesh

1 NO 1

उत्तर रेलवे
NORTHERN RAILWAY

SS/LMS

उत्तर रेलवे
Gan. 03/3/90

L.NO. 319/E/SELN/1101PLAS

01.03.90

To,

1 - The Ostrada, SS/Tu,

2 - SS.105, Fdy, Lms. } Horol (CILKU).

SUB:-

Interview for the post of
Asst Manager (Production-266) -

Ref: - This office letter of even No.
dt: 08/3/90

The date for Interview for the above
post has now been fixed for 31.3.90

at 11.00 hrs. All the following candidates may
please be present for interview the same in the
Chamber of Sycamore (CIL) LKU -

1 - Sh. Girish Dixit - HCF/Mod.

2 - Sh. R.P. Srivastava - HCF/SS.

3 - Sh. U.G. Shukla - HCF/Tu

4 - Sh. Mahendra Prakash (S/Ch) - HCF/LMS.

5 - Sh. Jitendra (S/Ch) - HCF/Tu.

6 - Sh. Ram Chandra - HCF/Fdy.

For CWM/CB/LKU

X

(A317)

A. NO. 2

NOTIFICATION NO. 314/N/S/Min/Gen 10/15 dated 08/3/1990

The Office Superintendent.
The Shop Superintendent, Boiler
The Office Superintendent, Time Office.
The Shop Superintendent (I.M.R)
Loco Shops Charbagh, Lucknow.

Sub: Selection for the post of Assistant in P.C.T.
(Non Personnel) Sr. F. 1600-2660.

The following candidates may kindly be
spared and directed to attend interview on
16.3.90 at 15 hrs for the above post in the
Chamber of M.C.M. (L) /C3/IKO-6-

1-Sri. G.K. Dixit, H.C.I.T.O.
2-Sri. R.P. Srivastava, H.C.I.T.O.
3-Sri. U.S. Shukla, H.C.I.T.O.
4-Sri. Mahendra Prakash
(SIC) H.C.I.T.O.
for Chief Works Manager
Loco Charbagh, Lucknow.

*Sachwan 8/3/90

~~Jit LMS~~
Noted to: Sri. M. Prakash H.C.I.T.O.
Noted
13/3/90
LMS
H.C.I.T.O.

1000 6/3/90
P.M.L.B.

• (2319)

800

12

कर्तव्य रेती

ईम रेती भूमिकात

परिवार निवास

पर्याप्ति ०- ३१४ वर्ष/वर्ष

पर्याप्ति २) २.९०

स्वीकृत/उत्तराधिक, डायलर लाइ, वा. १५५१, नोट एटेल श्रीम शास्त्र
ड.के. एट्रवार्ट ल्यूक्स ।

विवरण:- उपर्युक्त श्रीम/ इमारिक वर्ष । वैतानिक ४० ९५०-७५० [ए. २३]
१६००-२६६० [एट. रो. एट. १२ वर्ष ।

प्रारंभिक वर्ष वैतानिक वर्ष । वर्ष १- १९.१२.९९ वर्ष

पूर्वक लिखित परीक्षा १६.१.९० ने उत्तराधिक द्वारा लिखित विभिन्न उपार्थी
प्राप्तान्तर १६.१.९० ने उत्तराधिक द्वारा लिखित विभिन्न उपार्थी १६.१.९० ने उत्तराधिक द्वारा
लिखित विभिन्न उपार्थी ।

वर्षपत्री

१. श्री गोपी श्री गोपी

कर्तव्य रिपोर्ट

उत्तराधिक विभाग

२. श्री. गोपी श्री गोपी

उत्तराधिक विभाग

३. श्री. गोपी श्री गोपी

उत्तराधिक विभाग

४. श्री. गोपी श्री गोपी

उत्तराधिक विभाग

द्वारा लिखित विभिन्न उपार्थी

द्वारा लिखित विभिन्न उपार्थी ।

श्रीवाराम्य/ रु. २.९०

✓

NORTHERN RAILWAY LOCOMOTIVE WORKS CARR. ASH LUCKNOW

10. 3147/ IV

Dated . 28/11/39.

The office Supct (Time Office)
SS/LMS, E.C./PUN, LS, DFL, Y.S., PDY,
Rolling Stock, PS LS, LS, etc.
C/o Lucknow.

Sub:- Selection (written test) for the post of asslt.
w.p.t. in grade 3s, 1000-2000 in Nov. 'P' group.

The date of selection for the above post has been fixed
for 04.12.39 at 14.00 hrs. The following ministerial staff
concerning with your section may kindly be advised about
the same and spared to this office for appearing in the test
accordingly.

1.	S. Sri	Ram Bahadur	HC/ LMS
2.		R.S. Macav	.. C/T ..
3.		R.A. Lal	HC/ R.S
4.		R.K. Jha	HC/ E.S
5.		Gang Ram Singh	HC/ E.L. PUN
6.		K.D. Dubey	HC/ LS
7.		G.K. Dixit	HC/ Prod.
8.		Ram Laxman	HC/ DFL
9.		T.N. Gupta	HC/ DFL
10.		R.U. Advani	HC/ Y.S
11.		M.L. Sharma	HC/ T.S
12.		R.P. Srivastava	HC/ D.P.
13.		J.L. Kawat	HC/ E.C.
14.		S.S. Shukla	HC/ T.O.
15.		U.S. Sukla	HC/ T.O.
16.		J. Bandhan (S/C)	HC/ T.O.
17.		Mahendra Pd. (S/C)	HC/ LMS
18.		Ram Copal (S/C)	HC/T.O.

for Chief Works Manager
.. M/s. Carcoch Lucknow.

(Ans)

21

IN THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL,

CIRCUIT BENCH, LUCKNOW.

Registration (C.A.) No.102 of 1990(L)

DE T W E D N
=====

Nahendra Prakash

... Applicant.

versus

Union of India & others

... Respondents.

Fixed For : 16.4.1990

COUNTER REPLY ON BEHALF OF
RESPONDENTS NO. 1 and 2
=====

I, Hemant Kumar, working as Deputy
Chief Mechanical Engineer, Loco Workshop,
in the office of Chief Works Manager,
Northern Railway, Charbagh, Lucknow do hereby
solemnly affirm and state as under :

1. That the official abovenamed has been impleaded
as respondent No. 2 and as such is fully
conversant with the facts and circumstances
of the applicant's case and has been authorised
by the respondent No. 1 to file this reply on his
behalf also.


16/4/90

2. That the contents of the paras 1 and 2 of the original application being vague in nature do not call for reply. Since the applicant has himself alleged that this Hon'ble Tribunal has no jurisdiction to decide the case and which is reemphasised in para 2 of the application, it means that the applicant ~~is~~ himself do not desire to contest the case before this Hon'ble Tribunal hence this case is ~~is~~ fit to be rejected on this score only.
3. That the contents of the para 3 of the original application do not call for reply.

That reply to the facts of the case
stated by the applicant are as below ;

4. That the contents of the para 1 of the original application are not disputed.
5. That the contents of the paras 2 and 3 of the original application are not admitted as alleged. Actually 18 persons were called for written test for the posts of Assistant


16/4/90

Am/3

.. 3 ..

Superintendent but out of 19 only 15 candidates appeared for the same. As per policy one who obtains 60% or more marks in the written is to be declared suitable for interview, accordingly 4 candidates namely S/Sri G.K. Dixit, R.P. Srivastava, U.S. Shukla and Mahendra Prakash (SC) i.e. the applicants were called for interview vide annexure No. 2 to the original application. As per

instructions of the Railway Board, contained in its letter no. E (SCR) 63 A/15/10 dated 13th July, 1970 further amended vide the Railway Board's letter No. E (U) I-72 I: 1/ 153 dated 12th December, 1973, the pass marks for the written test in case of Scheduled Caste and Scheduled Tribe candidate were relaxed to the extent that one who secures 10 or above out of 35 marks in the written test are also eligible for being called in the interview.

When this fact came to the notice of the selection committee, the interview was postponed till the matter gets clarify. After clarification the respondents No. 3 and 4 who had secured 10

16/4/90

.....4

(A4/4)

.. 4 ..

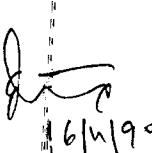
more
or marks in the written test were also called
for the interview vide annexure No. 1 to the
original application. Copies of said Railway
Board's letter dated 13th July, 1970 and 12th
December, 1973 are being filed herewith as
Annexure No. C-1, C-2 Annexure No. C-1 and C-2 to this reply.

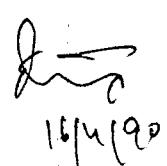
- 6- That the contents of the para 4 of the original application being matter of record is admitted.
7. That the contents of the paras 5 and 6 of the original application are categorically denied. The respondents No. 3 and 4 being Scheduled Caste candidates were correctly and legally called for interview as per relaxation in marks applicable in their cases vide Railway Board's letters dated 13th July, 1970 and 12th December, 1973 contained in annexure No. C-1 and C-2 to this reply.
8. That the contents of the para 7 of the original application are also categorically denied. The respondents No. 3 and 4 have


16/11/90

secured the qualifying marks in the written test as prescribed for Scheduled Caste and Scheduled Tribe candidates as per Railway Board's instructions.

9. That the contents of the paras 8 and 9 of the original application ~~is~~ are denied. The applicant could have made a representation to the department before approaching this Hon'ble Tribunal and otherwise also the final selection will be made on the basis of total marks obtained in written test as well as in the interview hence there is no question of any loss or gain to any candidate as one who obtains maximum marks in written test as well as in interview will be placed on the ~~panel~~. As such there is no merit in the case and this original application is fit to be rejected with costs in favour of answering respondents.


16/4/90
Lucknow.


16/4/90

Dated : 16.4.90

(A4/6)

... 6 ...

V E R I F I C A T I O N
=====

I, the official abovenamed do hereby verify that the contents of para 1 of the reply is true to my personal knowledge and those of paras 2 to 9 of this reply is believed by me to be true on the basis of records and legal advice.

Lucknow.

Dated: 16.4.1990 .


16/4/90

A4/7

Before the Hon'ble Central Administrative Tribunal,
Circuit Bench, Lucknow.

Registration No 102 of 1990(L)

Mahendra Prakash Vs. U.O.I. & Others.

Annexure No. C-1

311

Railway Board's letter No. E(SCT)68CM15/10 dated 13th July 1970.

In their letter No. E(NG)I/70/PM/22 dated 21st February 1970, the Board had decided that the staff who secure less than 15 marks out of 35 allotted for written test, as a part of selection, need not be called for *viva voce* test before the Selection Board for the reason that even if they get maximum of 15 marks in the *viva voce* they will not be able to secure minimum qualifying marks i.e., 30 out of 50.

In the case of Scheduled Castes and Scheduled Tribes this minimum limit of 30 out of 50 has already been reduced to 25 out of 50 in the categories where safety aspect is not involved *vide* Board's letter No. E(SCT)68CM15/10 dated 27th August 1978.

The Board have decided that in such categories the reserved community candidates need not be called for *viva voce* if they secure less than 10 marks in the written test for the reason that even if they obtain 15 out of 15 marks in the *viva voce*, they will not be able to secure the minimum qualifying marks prescribed for them i.e., 25 out of 50.

[Signature]
[Signature]
राज्य नियन्त्रण विभाग
राज राज्य लोक सभा
परिषद भवन

[Signature]
16/4/90

AUS

Before The Hon'ble Central Administrative Tribunal,
Circuit Bench, Lucknow.

Registration No. 102 of 1990 (L)
Mahendra Prakash Vs. U.O.I. & others

Annexure No C-2

315

Railway Board's letter No. E(NG)I-72PM1/158 dated
12th December 1973.

Sub : Procedure for calling candidates for viva voce for
filling up selection posts—Non-gazetted.

In terms of Board's letter No. E(NG)62PM1/22 dated 5th October 1964 a candidate must obtain a minimum of 30 marks out of 50 marks in "professional ability" and 60 marks on the aggregate for being placed on the panel for a selection post. According to Board's letter No. E(NG)65PM1/5 dated 29th October 1966, where both oral and written tests are held for adjudging the "professional ability", the marks for the written examination should not be less than 35. The Board have decided that a candidate must secure a minimum of 60 per cent marks in the written test for the purpose of being called in the *viva voce* test.

2. The procedure should also be followed in the case of general posts which are filled in accordance with Advanced Correction Slip No. 78 to para 216(g) of Chapter II of the Indian Railways Establishment Manual circulated *vide* the Board's letter No. E(NG)I-72PM1/158 dated 21st August 1972.

3. The above instructions will be applicable to Scheduled Caste and Scheduled Tribe candidates also so far as categories involving safety of travelling public are concerned. In regard to the categories where safety aspect is not involved, the instructions contained in Board's letter No. L(SCT)68CM15/10 dated 13th July 1970 will hold good.

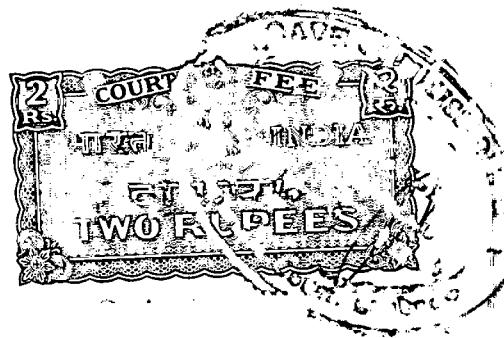
Attested

Signature
16/4/90

राय. नाना शर्मा
राज. राज. लोकेश
रवामा राजताल

AS/1

Before the Hon'ble Central Administrative Tribunal
Lucknow Bench, Lucknow.



1990
AFFIDAVIT
83 IM
DISTT. COURT
U. P.

Counter Affidavit on behalf of Respondent
no. 3 .

.....
In O.A. No. 102 /90 (L)

Mahendra Prakash

.....Applicant

Versus

Union of India and others

.....Respondents.

22-6-90
Son of Late Shri Shiv Dhami
Head Clerk, Time Office, Loco Work Shop Charbagh
Lucknow do hereby solemnly affirm and state on
oath as under :-

1: That the deponent is the respondent no. 3
in the above noted application as such is fully
conversant with the facts stated below .

2: That the contents of para of application
filed by the applicant has been read over and
explained to the deponent and he has understood

H. Dhami

As/2

:2:

its contents thereon.

3: That the Contents of para 1 to 3 of the application are not disputed .

4: That the contents of para 4/1 are not disputed. ^{✓ of facts of the case}

5: That the contents of para 4/2 are not correct as stated above hence denied. It is stated that Chief Works Manager Loco workshop respondent no. 1 has wrongly declared

the result of only 4 candidates instead of all six but

subsequently rectified his mistake by issuing order

no. 314/E Fourth / 1 dated 26.3.90 intimating that the

deponent and respondent no.4 being S.C. candidates are

also been declared successfull in written test , the

copy of order dated 26.3.90 is filed herewith as annexure

no. A 1 to this counter affidavit .

That the contents of para 4/3 are also denied ^{✓ of facts of the case}

being incorrect and wrong . It is stated that the deponent was declared successfull in written examination vide

order dated 26.3.90 contained in Annexure no A-1 hence

he was rightly called for interview held on 31.3.90, it

is also stated that deponent hopes that he has also succeeded in Interview but the result of interview has

yet not been illegally declared by respondent no. 2

J. D. S.



13:

till now, inspite of the orders of this Hon'ble Tribunal.

7: That the contents of para 5 and 6 are

quite wrong and incorrect hence denied. It is stated that order dt. 27.2.90 was wrong which was rectified by respondent no. 1 and 2 by subsequent order dated 26.3.90 contained in annexure no. 1 to

this counter Affidavit. It is also denied that respondent no. 1 and 2 were called for interview.

8: That the contents of paras 6 and 7 are

also wrong incorrect, misconceived hence denied. It is stated that the defendant has

qualified the written examination and obtained standard marks he was declared successful and

was called for interview by respondent no. 1 and 2

which is quite illegal, proper and just and was within the jurisdiction of respondent no. 1 and 2

9: That the contents of para 8 are denied

since the applicant has not sustained any legal injury nor any cause of action arose for the present application and even the applicant has not

preferred any departmental appeal or representation as such has not exhausted the departmental

remedies available to him hence the application

Other

Asly

14

is not maintainable and is liable to be dismissed.

10: That the contents of para 9 are denied and it is further stated that the present application is not maintainable and is liable to be dismissed with cost and the applicant is ~~not~~ entitled for any relief.

11: That the interim order dated 16.4.90 is liable to be vacated and respondent no. 1 and 2 may be directed to declare the defendant's result.

12: That this Hon'ble Tribunal by its order has restrained the respondent no. 1 and 2 ~~only~~ to deal with the result of only one post but respondents no. 1 and 2 had illegally also withheld the defendant's result which is causing substantive loss and damages to the answering deponent.

Lucknow.

J. Akbar
Deponent.

Verification

I, the above named deponent do hereby verify that the contents of para 1 to 12 are true to my own knowledge no part of it is false, nothing has been concealed to help me. God. Bismillah ur Rehman ur Raheem this 22nd day of May, 1990. in the court compound at Lucknow.

J. Akbar
Deponent.

I know the deponent who has signed before me B. N. Misra

22/5/90 Adm

Before Central Administrative Tribunal
Lucknow Bench Lucknow
Makendra Prakash — Appellant
Union of India ^{vs} Oppon. party
O.A. No. 102/90

Annexure No. A-1

STATE RAILWAY
NORTHERN RAILWAY

SS/LMS

जनरल ०२/९०
Gent. ०२/९०

L. NO. 319 E/501/1100PLAS

D. 26/3/90

To,

1 - The Director, 05/TO.
2 - SS.103, FOY, LMS { Head Office.

Sub:-

It is to be the fact of
Mentioned information.

Ref: This office letter of even No.
dt. 08.3.90.

The service telephone for the above
post has now been changed dt. 31.3.90
at New No. 011-22221122. Coordinates may
please be given for same. May come in the
Chamber of Commerce Lucknow. —

1 - Sh. C.R. Dixit - M.L.D.

2 - Sh. P.P. Chaturvedi - M.L.D.

3 - Sh. V.G. Shukla - M.L.D.

4 - Sh. Makendra Prakash (S/o) - M.L.D./LMS.

5 - Sh. Jitendra Chaturvedi - M.L.D.

6 - Sh. Ramanand Chaturvedi - M.L.D.

12.5.90.

CC

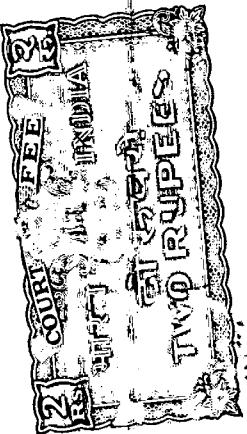
for C.R.M.C.B./LMS.

True copy
B.N. Misra Adv

(A611)

34

Before the Hon'ble Central Administrative Tribunal
Lucknow Bench : Lucknow.



Rejoinder affidavit in behalf of
Mahendra Prakash (Petitioner)

• • • •

In O.A. No. 102/90(L) dt. 24.90.

Mahendra Prakash. ... Applicant
Vs.
Union of India and others ... Respondents.

Rejoinder Affidavit

*(Signed today
4/9/90)*
I, Mahendra Prakash Head Clerk aged about 37
years s/o late Gaya Ram working as Head Clerk in the
Goco Workshop Charbagh Lucknow, deponent do hereby
solemnly affirm on oath as under :-

(Signature)
1. Respondents nos. 1 and 2 have declared the result
on 27.2.90 all the 15 candidates those were appearing
in the Asstt. Superintendent examination held on
15.1.2.89 and 16.1.90 out of 15 candidates, 4
candidates 1. Sri G.K. Dixit H/C 2. Sri Rakesh
Prasad Srivastava H/C 3. Sri U.S. Shukla H/C and
4. Sri Mahendra Prakash S/C H/C. were declared
Passed and rest 11 were declared failed by the
respondent nos. 1 and 2 including Sri Jyoti Banchan
H/C and Sri Ram Gopal H/C were also declared failed
by respondents no. 1 and 2, therefore, their names

(Signature)
4/9/90

2.

not included Annexure 2 in interview letter dt. 8.3.90 was fixed on 16.3.90; and result declared dt. 27.2.90. The Hon'ble Judge has ordered on 2.4.90 to the respondents 1 and 2 to produce the record on 16.4.90 but respondents have not produced any record. Before Hon'ble Judge how their names are included in Annexure-1 after one month.

2. While all the candidates results were declared on 27.2.90 only 4 candidates were passed and rest 11 were declared failed. The respondents 1 and 2, illegally called two failed candidates Sri Jyoti Bandhan and Sri Ran Gopal in interview and Sl. No. also changed in Annexure 1. The respondents 1 & 2 have not mentioned the reason of mistake and no any office order is issued by the respondents, for the result of dated 27.2.90 is wrong, it means the respondents 1 and 2 wanted to deceive the court as well as do the injustice between Sri Mahendra Prakash S/c Passed candidate to make forgery in result of failed candidates.

3. That if the result datee 27.2.90 was wrong how the result was declared by respondents 1 and 2 as well as Asstt. Personnel Officer O.S.(A) and both the dealing clerks and how the three candidates

3.

Sri G. K. Dixit H/c 2. Sri Rakesh Prasad Srivastava H/C and 3. Sri U.S. Shukla H/c were promoted as Asstt. Superintendent, the result declared dt. 27.2.90 the passed candidates and 11 candidates declared failed; on what basis the respondents 1 and 2 have rectified his mistake and nothing has been mentioned in counter. It means respondents 1 and 2 have taken Rs. 10 thousand from the failed candidates Jyoti Bandhan H/c and 10 thousand from Ram Gopal H/c failed candidates to make forgery result after one month after changing examination books and result also, so they have not produced any record on 16.4.90 as required by Hon'ble Judge Central Administrative Tribunal Lucknow.

4. That the result declared by respondent 1 and 2 all the candidates on 27.2.90 vide Annexure-2 dt. 27.2.90 interview letter dt. 8.3.90 which is produced in Hon'ble Court by Sri Mahendra Prakash H/C passed candidate (applicant) on 2.4.90, two failed candidates Jyoti Bandhan & Ram Gopal names were not included because they were declared failed by respondents on 27.2.90. If these 2 candidates were passed then how their names were not included in the result declared on 27.2.90 and interview letter dt. 8.3.90 Annexure-2 by the respondents.

There is only one post of S/C Asstt. Superintendent is vacant and one S/c candidate Mahendra Prakash s/c is declared Passed for this post vide the Annexure-2 dt. 27.2.90 and interview letter dt. 8.3.90.

5. In Para 7, it is wrong that respondents 1 and 2 were called for interview, respondent 1 is the Chief Workshop Manager being result approving authority and respondent 2 is interviewing authority then how they have been called for interview as Asstt. Superintendent.

That Railway Board letter no. E(SCT)68 C/15/10 of 13.7.70 and L.No.E(MG)I-72-PM1/158 dt. 12.12.73 attached with reply of respondents on 16.4.90 that is very old and already known by respondents and dealing clerks as well as GS(E) and Asstt.P. O. Loco Workshop CB Lko, so they have attached above letter on 16.4.90. If they do not know about this letter how they attached this letter, they have overlooked it with malaride intention to harass and do injustice with passed candidates Mahendra Prakash s/c who has been called for interview of Asstt. Superintendent on 16.3.90 by Annexure-2 dt. 8.3.90 by respondents 1 and 2.

7. That respondents 1 and 2 postponed the interview

5.

dated 16.3.90 with malafide intention for being changed the result and examination, copies of failed candidates of Jiyoti Bandhan and Ramgopal who were declaree failed by respondents 1 and 2 on dt. 27.2.90. After taking gratification of rs 20,000/- from Jyoti Bandhan and Ram Gopal failed candidates and their result and copies were changed and declared passed by respondents no. 1 and 2 ; further the respondents 1 and 2 announced the result/interview dt. 31.3.90 and two failed candidates' names illegally included of Jiyoti Bandhan and Ram Gopal after one month in Annexure 1 dt 26.3.90 with malafide intention. The respondents 1 and 2 have committed serious forgery for earning money from the failed candidates/employees.

Kindly direct to the opp. parties 1 and 2 the following records should be produced in this Hon'ble Court that why they have changed the ~~failed~~ failed candidates result and declared them to be passed :

Records required

1. Asstt. Superintendent examination copies the

6.

(answer books) of Jiyoti Bandhan H/C and Ram Gopal H/C who were appear in the Assistant Superintendent examination on 15.1.2.89 and they have been declared failed on 27.2.90.

2. Original result of Asstt. Superdt dt 27.2.90 and interview letter dt. 8.3.90 included in the Annexure no. 2;

3. Promotion order of Asstt. Superintendent 1. G.A. Dixit H/C 2. R.P. Pravastava H/C 3. U.D. Shukla H/C, the written examination result of dt. 27.2.90.

After one month on 26.3.90 respondents 1 & 2 have made forgery in result of two failed candidates Jiyoti Bandhan and Ram Gopal who were declared failed by respondent 1 and 2 on 27.2.90. After taking Rs. 20,000/- the forged result dt. 26.3.90 not circulated by respondents 1 and 2 to the concerning shops and interview appearing of candidates those were appearing in interview of Asstt. Superintendent. The respondents 1 and 2 submitted the incomplete reply to this non-biased Court to receive them.

Manohar R. Kothi

9. That respondents 1 and 2 wanted to 10 thousand

rupees from Mahendra Prakash u/c applicant and for the promotion of Asstt. Superintendent, when he could not pay the amount, the respondents 1 and 2 unscrupulously harassed to a applicant and made forgery in result of failed candidates of Jiyoti Bandhan and Ram Gopal after taking the money amounting to Rs. 10,000 each failed candidates. Therefore respondents 1 and 2 have committed unbearable forgery and declaring the results of failed candidates and were declared then passed in appearing of interview of Asstt. Superintendent, why the respondents 1 and 2 have declared and not published the result of respondents 3 and 4 Jiyoti Bandhan & Ram Gopal.

It is selection post and no candidate can be called in interview without passing selection, so it is necessary to issue order to respondents no. 1 and 2 to promote Mahendra Prakash u/c as Asstt. Superintendent who has passed his test and he is suffering loss of his candidature, as such the failed candidates have been called for interview illegally namely Jiyoti Bandhan &

1/9/90

Mahendra Prakash

AC/8

8.

Ram Gopal who were failed in the written examination, so it is necessary that legal action be taken against the respondents 1 and 2 according to law.

Mukundanarkar

Lucknow dated

Deponent

31/8/90

Verification

I, the deponent named above do hereby verify that the contents of Paras 1 to 9 of this Rejoinder affidavit are true to my own knowledge no part of it is false.

Mukundanarkar

Deponent

I identify the deponent who has signed before me.

Sundararao
Advocate

11/9/90
Sundararao
Advocate

11/9/90

Mukundanarkar

Shri Hemant Kumar, Deputy C.M.E. (Workshop)
 Charbagh, Lucknow accompanied by Mr. Anil Srivastava
 counsel for the respondents 1 & 2 states with
 reference to the record of the examination held
 for the post of Asstt. Supdt. (Non Personnel)
 Northern Railway in December, 1989 and March, 1990:

I am Deputy C.M.E. and was a member of
 the Selection Committee which conducted the above
 examination. Paper No.8 of the file of the
 examination which is before me contains marks
 obtained by the candidates in the written test
 and notional seniority given to the candidates.
 This notional seniority has been described under
 the heading "Seniority" in this paper. Both
 Mahendra Prakash and Jicut Bandhan, the applicant
 and respondent No.3 were awarded 4 marks each for
 notional seniority. On Sheet No.6 the column
 marked for seniority, for maximum marks of 15
 contains the marks given to each candidate
 separately. On the sheet the applicant has been
 given 7 marks while the respondent No.3 has been
 given 9 marks.

EXPLANATION:

The notional seniority marks are given
 for the candidates who appear in the written test
 of the selection. If a candidate has not secured
 the minimum qualifying marks to be called in the
 interview on the basis of written test alone then
 notional seniority marks are added to the written
 test marks, accordingly if the candidate qualifies
 the minimum prescribed marks for the written test
 as well as the seniority, then he becomes eligible
 to be called for interview. The purpose of
 notional seniority marks comes to an end at that
 stage.

Thereafter at the time of interview the
 seniority marks are allotted afresh. If the number


 4/4/91

of candidates for the interview are more than 10 then the seniormost candidate is given 15 marks and the juniormost is given 3 marks and if the number of candidates at the interview is 10 or less then the juniormost is given 5 marks and the seniormost is given 15 marks. This is on the basis of the maximum marks of 15. This principle is given in Printed Serial No.4839.

In the present case there were 6 candidates for interview. The seniormost candidate was allotted 15 marks; the juniormost was allotted 5 marks. The remaining 4 candidates were given marks by distribution according to seniority i.e. 13.11.9 and 7 respectively.

In the marks for viva voce at Sheet No.6 there is no real over-writing in the marks allotted to the applicant Mahendra Prakash. The written marks are the average of the marks assigned separately by each one of the 3 members of the Selection Committee which are set out at Sheet Nos.1,2 and 3 of the record. The marks for viva voce allotted to the applicant Mahendra Prakash by the three members of the Board were 6,9 & 8 whose average has been mentioned in Sheet No.6 to be 8.

The post of Asstt. Supdt. (Non Personnel) is a selection post by promotion from the field of Head Clerks. Among the Head Clerks, respondent No.3 Jicut Bandhan was senior to the applicant Mahendra Prakash as set out in Sheet No.8. Shri Jicut Bandhan is at item No.13 and Mah. Prakash is at item No.14.

On the assertion made by Shri G.Kelwani, the learned counsel for the applicant that in

G.K.
1/4/91

Sheet No.6 the date of appointment of Jicut Bandhan is mentioned as 25.6.73 and that of Mahendra Prakash is mentioned as 11.1.72 and hence Mahendra Prakash is senior to Jicut Bandhan, I clarify that these are not the dates of appointment as Head Clerks but the dates of appointment to the service.

Shri T.N.Gupta, Advocate and Shri Anil Srivastava, Advocate say that they will not ask any question.

J. S. -
4/4/91

Ans. for S.D.
4/4/91

gk
4.4.91