

FORM NO. 21

(See rule 114)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,BENCH

OA/TA/RA/CP/MA/PT ..86/90...of 20.....

R.S. Parmu

Applicant(S)

Versus

U.O.9.

Respondent(S)

INDEX SHEET

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Certified that the file is complete in all respects.

B.C. file weeded and destroy

Signature of S.O.

Signature of Deal. Hand

GENERAL ADMINISTRATIVE TRIBUNAL
SPECIAL BENCH, LUCKNOW

SAT. IT BENCH, LUCKNOW

Registered in No. 076 of 1989

APPLICANT(S)

R. S. Lane

RESPONSES:

0.02

AI

Particulars to be examined

Endorsement as to result of examination

1. Is the appeal competent?
2. a) Is the application in the prescribed form?
b) Is the application in paper book form?
c) Have six complete sets of the application been filed?
3. a) Is it filed in time?
b) If not, by how many days it is beyond time?
c) Has sufficient cause for not taking the application in time, been shown?
4. Has the document of authorisation/authorization been filed?
5. Has the application accompanied by a/c, Postal Order for Rs. 50/-
6. Has the verification copy/copies of the order(s) against which the application is made been filed?
7. a) Have the copies of the document/referred upon by the applicant and mentioned in the application, been filed?
b) Have the documents referred to in (a), duly attested by a Magistrate/Judge and returned accordingly?
c) Are the documents referred to in (a) also neatly typed in double cases?
8. Has the index of documents been filed and tagged to properly?
9. Have the chronological details of representation made and the date of such representation been indicated in the application?
10. Has the matter moved in the application, pending before any court of law or any other Body of Tribunal?

yes

4 No

✓

4

40

Rs 500

45

4

4

10

4.

b

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N. 2

(A2)

Particulars to be Examined

Endorsement as to result of examination

11. Are the application/duplicate copy/spare copies signed ?
12. Are extra copies of the application with Annexures filed ?
 - a) Identical with the Original ?
 - b) Defective ?
 - c) Wanting in Annexures
13. Have the file size envelopes bearing full addresses of the respondents been filed ?
14. Are the given address the registered address ?
15. Do the names of the parties stated in the copies tally with those indicated in the application ?
16. Are the translations certified to be true or supported by an Affidavit affirming that they are true ?
17. Are the facts of the case mentioned in item no. 6 of the application ?
 - 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 ?
19. Whether all the remedies have been exhausted.

Yes

Yes

12 + 4 Copies

No

Yes

Yes

NA

Yes

Yes

Yes

dinesh/

21/3/90


Hon. Mr. D.K. Agrawal, J.M.
 Hon. Mr. K. Obayya, A.M.

(P3)

The application is not in a proper order. Let the application be brought in a proper order.

List it for order on 22/3/90.


 A.M.


 J.M.

22/3/90

Hon. Mr. D.K. Agrawal, J.M.,
 Hon. Mr. K. Obayya, A.M.

The application by the applicant to join together is permitted.

Heard Shri. A.K. Chaturvedi,
 Admitted.

Issue notice. Let the counter affidavit be filed within 6 weeks, here of and rejoinder affidavit, if any, within 2 weeks, thereafter.

As regard the interim ~~order~~ prayer, issue notice to the respondent to show cause, as to why the interim prayer made for being granted. The learned counsel for the

C.A. 86/90

30-4-90

Hon. Mr. Justice K. Nath, VC.

Hon. Mr. K. Chagga, AM.

(AM)

heard the parties' counsel. Interim relief is sought to prevent termination of services of the applicant on the ground that he did not pass the test provided for in Appendixes 2-A of Indian Railway Establishment Manual.

Counsel for the opposite parties says that the services have not yet been terminated, although the applicants have failed in the test. The point involved in this case is also involved in similar other cases, in which interim relief against the termination has been given to the applicants. We think that it would be proper to dispose of all these cases expeditiously. The O/o may file counter within 2 weeks, to which the applicant may file rejoinder within one week thereafter. The case may be listed for final hearing on 28-5-90 along with other cases. Till then the services of the applicants will not be terminated.

Re
Cld
21-5-90

AM

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VC

CA 89:

24-7-90

Hon. Mr Justice K. McCall, VC
Hon. Mr. K. Langan, QC.

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Let for hearing on 29-8-90
along with CA 115/90, 118/90 and
CA 127/90. The interim order
shall continue.

Ed

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RA filed. ~~del~~
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(P6)

O.A. 22 115/90
118/90
86/90

8.1.91 Hon. Mr. D.K. Agrawal, J.M.
Hon. Mr. K. Jbavva, A.M.

Shri ~~A.L.~~ Saxena appears in O.A. 115 & 118/90 for applicant. Shri A.K. Chaturvedi appears for the applicant in O.A. 86/90. Shri Anil Srivastava appears for opposite parties in all the cases. Shri R.C. Saxena desires adjournment on the ground of illness. Shri A.K. Chaturvedi also does not want to address the court on the ground that it may be better if the cases are taken up together. We find that stay order already operates ~~in~~ since 6.4.90. Therefore, undue adjournment cannot be permitted in these cases. However, in the interest of justice we permit an adjournment today and order this case to be listed on 25.2.91.

O.A. 127/90 V.P. Sinha vs. Union of India is on the same subject matter and is fixed for ~~22.2.91~~ 22.1.91. On the basis of request made by Shri Anil Srivastava it is hereby ordered that the said case will also be listed on 25.2.91. Let office may make a note in the order sheet of the case also. The stay order already passed shall remain in force till 25.2.91.

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A.M.

Dep
J.M.

ORDER SHEET

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD.

O.A. NO. 86 OF 1990

R.S. Pansari Vs. U.O. 92/91

(A7)

Sl.No. 1	Date 2	Office Report 3	Orders 4
		<p>Hand Copy Bt Chaitali 14/8/91</p> <p>Rem Copy of judmt K.K. Iattle 14/8/91</p>	<p><u>31-7-91</u> judgment delivered today. The petition is disposed of with observa- tion contained in judgment. No order as to costs.</p> <p>one 31/7/91</p>

PANKAJ/

P.T.O.

(12)

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD

CIRCUIT BENCH

LUCKNOW

Original Application No. 86 of 1990

R.S. Panu & others

Applicant

versus

Union of India & others

Respondents.

Hon. Mr. Justice U.C. Srivastava, V.C.

Hon. Mr. A.B. Gorthi, Adm. Member.

(Hon. Mr. Justice U.C. Srivastava)

The applicants were selected for the post of Clerk grade I through competitive examination which took place in pursuance of the advertisement in which the applicants applied and the result declared on 19.7.1985. The advertisement was in respect of the post of Clerk Grade I and the Senior Clerks. As the applicants were also required to appear in the confirmation test provided in the Appendix II of the Indian Railway Establishment Manual, after their completion of probationary period. According to them, Alka Sahni, Harjeet Singh and K. Neeru Nijawan were appointed on the basis of the same examination ~~but~~ in which the applicants were appointed but they were allowed to change their categories in the years 1987, 1988 and 1989 respectively. The applicants approached this Tribunal before their services were actually terminated and the interim order was granted for not

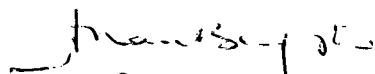
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terminating their services. We have, in the case of R.K. Gupta and others vs. Union of India & others (C.A. No. 115/90 , a similarly circumstanced case, held that for non passing examination the services cannot be terminated and the respondents cannot impose a condition which does not find place in the statutory rules without amending the same and the the change of category if it had not been done can also be considered for these persons and without considering this their services cannot be terminated. This judgment shall affirm our view of that judgment also. /

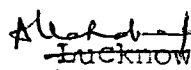
We direct the respondents not to terminate the services of the applicants on the ground that they have failed to pass the confirmation examination and will consider the question of granting more chance for them and will also consider the prayer for change of category and will not create classes between class.

The petition is disposed of as above without any order as to costs.


Adm. Member.


Vice Chairman.

Shakeel


Lucknow Dater: July 21, 1991.

20-3-90

(X10)

IN THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH AT LUCKNOW

O.A. No. 06 of 1990(L)

R.S. Panu and others

... Applicants

Versus

Union of India & others

... Opp. Parties /
Respondents

I N D E X

-
1. Memo of application 1-11
 2. Bank Draft/Postal Order No. 8 02 609879
Dated 20.3.90 for Rs 50/- only.
 3. Vakalatnama
-

Place: Lucknow

Dated: 20.3.90

Raju/-

A. Chatterjee
Advocate,
Counsel for the applicants

P.T.

20/3/90

Noted for 21.3.90
Asif Kumar Chattervedi
Advocate
20/3/90

File

IN THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL

CIRCUIT BENCH AT LUCKNOW

Original Appln. No. 06 or 1990(L)

1. R.S.Pann, Aged about 31 years,
Son of Sri Darwan Singh,
R/O ~~52F GP H Colony, Alambagh, Lucknow~~
C2529 Rajaji Puram.
Working as S.A.O.(W), N.R., Alambagh,
Lucknow.
2. M.I.Beg, Aged about 32 years,
Son of Sri Mirza Jamal Beg,
R/O 324 Begam Ward, Pratapgrah.
Working as S.A.O.(W), N.R. Charbagh, Lucknow.
3. Chote Lal, A/a 34 years,
Son of Sri Bhola Nath,
R/O Vill. Lakhimpur Post Jalalpur,
Distt. Jaunpur.
Working as S.A.O.(W), N.R., Alambagh,
Lucknow.
4. Ajai Babu, Aged about 32 years,
Son of Late Babadeen Chandhari,
R/O H.No. 265/403 Bhadewan, Lucknow.
Working as S.A.O.(W), N.R. Charbagh,
Lucknow.

... Applicants

Versus

1. Union of India through its Secretary, Chairman
Ministry of Railways,
New Delhi.
2. General Manager (Personnel),
N.R. Baroda House,
New Delhi.

Ram Singh
Mirza Jalal Beg
Ajai Babu
Chote Lal

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3. Dy. Chief Accounts Officer,
Northern Railway,
Barodahouse, New Delhi.
4. Financial Advisor/Chief Accounts Officer,
Northern Railway,
Barodahouse, New Delhi.

... Respondents

APPLICATION UNDER SECTION 19
OF THE TRIBUNALS ACT, 1985.

DETAILS OF APPLICATION

1. Particulars of the order against which the application is being made;

The above said application is being preferred before this Hon'ble Tribunal against the illegal and discriminatory act of the Opp. Parties./respondents.

2. Jurisdiction of the Tribunal;

The applicants declares that they are posted at Lucknow. Applicants no. 2 & 4 are posted as A.C.O.(W), N.R., Charbagh, Lucknow and Applicants no. 1 and 3 are posted as A.C.O.(W)NR. Alambagh, Lucknow, hence this bench of the Tribunal has jurisdiction.

3. Limitation;

The applicant further declares that the application is within the limitation period prescribed in section 21 of the (Limitation) Administrative Tribunals Act, 1985. Because the cause of action is concrete hence this application is within limitation. More over the last

Ram Singh Panu
Mirza Jafar Beg
Ajay Bhatnagar
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result of the Appendix II A examination was announced²⁷ in Dec. 1989 in which the applicants could not succeed hence the termination of their services became evidence after that.

4. Facts of the case;

- i. That the Railway Recruitment Board has advertised a large number of vacancies of the Clerk Grade I and Senior Clerks to be filled through a competitive examination written and oral. The examination was common and same for both the posts. This advertisement was published in the 'Dainik Jagran' Lucknow on 16th May, 1982. A copy of the said advertisement is annexed herewith as ANNEXURE No. 1 to this application.
- ii. That all the applicants appeared in the said examination along with a large number of other candidates.
- iii. That all the applicants were selected for the post of Clerk Grade I. The result was announced on 19th July, 1985 after waiting for more than 3 years and a large number of candidates were selected for the above said posts of Clerk Grade -I. Here it may be pointed out that those who had higher merit on the basis of same examination were given the first posting as Clerk Grade-I and those lessor in merit were given the post of Senior Clerk. Here it may be pointed out that the scale of pay for both the posts

Ram Singh Panu
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was and is same.

iv. That in this manner all the applicants selected for the post of Clerk Grade-I having better merit and joined the services after completing due formalities in 1986. Later the post of Clerk Grade I was redesignated as Junior Accounts Asstt.

v. That the applicants no. 1, 2 & 4 joined at Delhi and applicant no. 3 at Jodhpur as Clerk Grade I. Ultimately all the applicants have been transferred to Lucknow and presently they are working at Lucknow.

vi. That the advertisement dated 16th May, 1982 under which the applicants applied, appeared in the examination did not contemplated any other examination or test after joining the services nor the test provided in Appendix IIA or the Railway Establishment Manual. This condition came later in respect of the Clerks Grade I. Here it may be pointed out that this condition was not imposed upon the Senior Clerks who were also selected through the same examination and were appointed in a large number in the Northern Railway but this was imposed only on the junior Accounts Asstt. like applicants. Neither this condition was mentioned in the advertisement dated 16.5.82 contained as Annexure no.1.

vii. That the applicants appeared in the examination they were allowed three attempts according to circular dated 3rd September, 1986. The applicant no. 1 took

Ram Singh Paner
MBA gahat Beg
Ajay Babu
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all the 3 attempts but could not succeed while the applicant no. 2, 3 & 4 took 2 attempts each and in one test they submitted medical certificate but they did not appear in the third test.

viii. That the tests took place in 1987, 1988 and 1989. The last result of 1989 or the test was annou ced in ^{27 December 1989} ~~January, 1990~~ and now there is a danger of the termination of the services or the applicants.

ix. That the applicants submitted application on 15.2.90 to the Financial Advisor, Northern Railway Baroda House, New Delhi who is the incharge of the Accounts wing, that the applicants may be given more chance but without any result and now the petitioners can be terminated at any time.

x. That the applicants were selected for the post or Clerk Grade I on the basis of one and the same examination through which the Senior Clerks were also selected and appointed but this condition of test was not imposed upon them. This condition of test in service was imposed only on the Clerk Grade - I. Though the division of selected candidates between the Clerk Grade-I and Senior Clerks was on the basis of higher and lower merit.

xi. That the advertisement issued by the Railway Service Commission for both the posts also did not stipulated any other test after being selected. As such the subsequent test to oust them from service is wholly arbitrary and mala fide.

Ram Singh
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xii. That after the selection the applicants also completed successfully in service training of the accounts imparted to them subsequently for the post ⁱⁿ of Clerk Grade I. So after this/service training there was no occasion for the so called test of Appendix IIA of the Railway Establishment Manual.

xiii. That due to the non passing of the test the applicants will be soon ousted from service. Here it may be clarified that in the advertisement posts were mentioned as Clerk Grade I and Senior Clerk. However the senior clerk remain as such and the clerk grade I was re-designated as Junior Accounts Asstt. on which the applicants are presently posted, and are being compelled to pass the test in service while the senior clerks selected by the same examination has not been compelled to pass any test.

xiv. That the applicants have also completed one year of probation successfully and also training given to them during the period of probation but for confirmation the test provided in Appendix-IIA of the Railway Establishment Manual is imposed as a pre condition which is wrong and illegal. This condition is not operative upon the Senior Clerks, though selected out of the same competitive examination but the applicants though selected on the basis of same examination posted as Clerk Grade I and later re-designated as Junior Accounts Asstt. are being compelled to pass the test contemplated in Appendix-IIA of the Railway Establishment Manual, this position is

Ram Singh
Mirza Ghulam Beg
Ajay Bhatnagar
Chhatkul

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wholly arbitrary and discriminatory.

xv. That the Appendix IIA provided that ordinarily 3 chances will be given to the candidates for passing the test. Applicants also applied for additional chances but they have not been provided, instead their services are likely to be terminated and this termination will come when all the applicants have become overage. There are cases in which 5 chances have been given to some of the candidates such as S/Sri Attar Singh and Iqbal.

xvi. That one Alka Sahni, Harjeet Singh and Km. Neeru Nijawan, were appointed on the basis of same examination in which the applicants were appointed as Clerk Grade I, later re-designated as Junior Accounts Asstt. However, they were allowed to change their category. They were allowed to join as Senior Clerks in the year 1987, 1988 and 1989 respectively and now they are free from burden of fresh test provided under Appendix IIA to suffer their employment.

xvii. That when the same examination with same papers was conducted for both the posts namely Senior Clerks and Clerk Grade I, both were in the same scale of pay, no definite criterion was fixed as to who will be on the side of Clerk Grade I (Junior Accounts Asstt) and who will be on the side of Senior Clerks. There was no distinction in both in respect of examination nor there were any additional papers for the accounts side. This being done wholly arbitrarily.

Ram Singh
Pirza Ghal Beg
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xviii. That one of the applicants namely Chotelal had also applied for the change of category in November, 1989 but no action is being taken on the application of the applicant.

xix. That in similar cases the interim orders have been granted by the Central Administrative Tribunal Delhi and Allahabad.

xx. That in the present case the applicants are likely to loose their employment and the services will be terminated hence this application on the following amongst other grounds;

5. Grounds for relief with legal provisions;

i. Because the two categories have been created on the basis of one and the same examination without any rational basis of distinction.

ii. Because the Senior Clerks are in advantages position while clerk Grade I are not. Though they came in the same manner through the same source. This is arbitrary and discriminatory.

iii. Because the fundamental rights of the applicants guaranteed under Arts. 14 and 16 of the Constitution are being violated in the sense that they have been placed in disadvantages position than those of the Senior Clerks without any point of distinction.

Ram Singh Ram
Prize Gopal Beg
Singh Babay
Chotelal

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iv. Because the applicants are being penalised and likely to be terminated for their no fault.

v. Because the further test under Appendix IIA was not provided as condition in the advertisement contained as Annexure no.1.

vi. Because the change of categories indicate that there is no material difference between the Clerk Grade I and Senior Clerk.

vii. Because the Railway administration is not acting fairly with the applicants.

viii. Because the action of the Opposite Parties is wholly arbitrary and mala fide.

6. Details of remedy exhausted;

The applicants declare that they have availed all the remedies available to him under the relevant service rules etc. The applicants submit an application on 14.2.90 in this respect. Hence the application is well within time in accordance with law.

7. The matter is not previously filed or pending with any other court;

The applicants declare that they had not previously filed any application, writ petition or suit regarding the matter in respect of this application has been made before any court or any other authority or any other bench or the tribunal nor any

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such application, writ petition, or suit is pending any of them.

8. Relief sought;

In view of the facts and grounds mentioned in paras 4 & 5 of this application, the applicant prays for following reliefs;

(A) That this Hon'ble Tribunal may be pleased to issue directions to the Opposite Parties not to compel the applicants to pass the test provided under Appendix IIA of the Railway Service Manual and confirm them from the date of the completion of the period of probation with all consequential benefits, in the matter of continuity, pay, increments, and other allowances, etc.

(B) That any other and further relief which this Hon'ble court deems fit and proper may also be awarded in favour of the petitioners along with cost.

9. Interim order if any prayed for;

Pending final decision, on the application of the applicant seeks the following interim relief;

That on the basis of facts and circumstances grounds mentioned in the application along with annexure it is most respectfully prayed that this Hon'ble Tribunal may be pleased to issue a suitable direction/order that the applicants may not be terminated pending disposal of this application

Ram Singh
Muzer Singh
Ajay Babu
Chhotu Lal

(11)

and the increments may be released, in the interest of justice.

10. The humble applicants want oral hearing through their counsel.

11. Particular of postal order;

Postal order No. 602609879 dated 20.3.90
for Rs 50/- only.

VERIFICATION

I, R.S. Panu, Aged about 31 years, Son of Smt
c/o C-2527 Rajapituaam
Darwan Singh, Resident of 55 F.G.P.H. Colony, Alambagh
Lucknow working as S.A.O.(W), N.R., Alambagh, Lucknow
also on behalf of other applicants do hereby verify
that the contents of paragraphs 1 to 11 are true to my
personal knowledge except para-5 which is true on the
basis of legal advice received and that I have not
suppressed any material facts. The applicant no.1
is also doing pairvi on behalf of other applicants.

Application is being provided vide notification
no. A-A.T-11019/44/87 dated 11th October, 1988.

Place: Lucknow

Dated: 20.3.90

Ram Singh Panu

Signature of the
Applicant

A. Anwar
Advocate,
Counsel for the applicants

Mirza Jhal Beg
Ajay Baboy
Chhoti Lal

ब अवालत श्रीमान

[बादी] अपीलान्त

प्रतिवादी [रेस्पान्डेन्ट]

Central Administrative
Tribunal, Lko.
महोदय
का वकालतनामा



अपीलान्त)

R. S. Panu and ors.

मुकदमा नं०

सन

बनाम

प्रतिवादी (रेस्पान्डेन्ट)

Union of India and ors
पेशी की ता० १६ ई०

ऊपर लिखे मुकदमा में अपनी ओर से श्री

A. Mannan

Shri A.K. Chaturvedi

वकील
महोदय
एडवोकेट

नाम-अवालत
मुकदमा नं० नाम
फरीकन बनाम

को अपना वकील नियुक्त करके प्रतिज्ञा (इकरार) करता हूँ और लिखे देता हूँ कि इस मुकदमा में वकील महोदय स्वयं अथवा अन्य वकील द्वारा जो कुछ पैरवी व जबाबदेही व प्रश्नोत्तर करें या कोई कागज दाखिल करें या लौटावें या हमारी ओर से डिगरी जारी करावें और रुपया वसूल करें या मुलहनामा व इकबाल दावा तथा अपील निगरानी हमारी ओर से हमारे या अपने हस्ताक्षर से दाखिल करें और तसदीक करें या मुकदमा उठावें या कोई रुपया जमा करें या हमारी या विपक्षी (फरीकासनी) का दाखिल किया हुआ रुपया अपने या हमारे हस्ताक्षर युक्त (दस्तखती) रसीद लेवें या पंच नियुक्त करें-वकील महोदय द्वारा की गई वह सब कार्यवाही हमको सर्वथा स्वीकार है और होगी मैं यह भी स्वीकार करता हूँ कि हर पेशी पर स्वयं या किसी अपने पैरोकार को भेजता रहूंगा छपर मुकदमा अदम पैरवी में एक तरफ मेरे खिलाफ फैसला हो जाता है उसकी जिम्मेदारी मेरे वकील पर नहीं होगी इसलिए यह वकालतनामा लिख दिया प्रमाण रहे और समय पर काम आवे।

(1)

हस्ताक्षर

B. L. Chaturvedi

(2)

(3)

साक्षी (गवाह)

ehhote lal

साक्षी (गवाह)

दिनांक

20/3/18

सन १६ ई०

IN THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL

CIRCUIT BENCH AT LUCKNOW

O.A.No. 06 of 1990(L)

R.S.Panu and others

... Applicants

Versus

Union of India & others

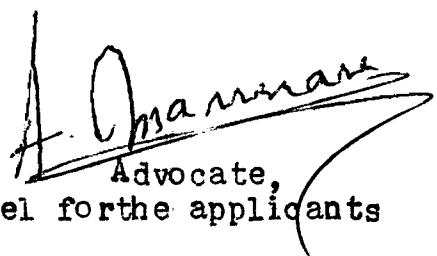
... Respondents

I N D E X

-
1. Annexure No.1
Copy of advertisement
-

Place: Lucknow

Dated: 20.3.90


Advocate,
Counsel for the applicants

1- प्रथम सेना में अपने उम्मीदवारों को यदि यह अवसर प्राप्त हो सके तो उन्हें जाने वाला आवेदन पत्र देर में भेजी जायत में वे अपना आवेदन-पत्र दायोप में सीधा भेजें। लेकिन उन्हें लिखित परीक्षा/साक्षात्कार परीक्षा में भी भागीदारी नहीं दी जायेगी क्योंकि वे अपने विभागाध्यक्ष/प्रमुख को नहीं सम्पर्क कर सकेंगे।

2- प्रथम सेना के ऊपर यह नियोजन सूचना संख्या 10/1/75 दिनांक 1/1/75।

3- इस सेवा में नियुक्त सभी पदों पर उम्मीदवारों को बाय-पास/अवधिपूर्व सेवा की सेवा इन्जीनियरिंग पत्र में 3 वर्ष की अवधि सुरक्षित सेवा में आठ वर्ष की प्रक्रिया सेवा दी जायेगी।

4- बायोन को यह अधिकार है कि वीथ कार्यों पर किसी भी प्रकार की रुकावट से बचाव में न तो कोई भी कार्य करेगी और न ही कोई एक - पेशावर किया जायेगा।

5- किसी प्रकार की भिन्नता करने वाले उम्मीदवार को बाय-पास/अवधिपूर्व सेवा दी जायेगी।

उत्तर रेलवे के लिये

कोटि संख्या 10- 10 पद कम्प्यूटर का सिविल इन्जीनियरिंग के लिए। वेतनमान रु. 450-550 (सं. वे.)। दो पद अनुसूचित जाति के लिए तथा एक पद अनुसूचित जनजाति के लिए। योग्यता:- किसी मान्यता प्राप्त विश्वविद्यालय से स्नातक/अनुभव प्राप्त अभ्यर्थियों की वरीयता। आय:- 20 से 30 वर्ष। प्रशिक्षण:- इतर बाधित में 6 माह की प्रशिक्षण एवं समस्त वर्तमान नियमों के अधीन होगा। महिलाएँ आवेदन न करें।

कोटि संख्या 2:- 22 पद कोम्पल एण्ड मेटलर्जिकल सहायक के लिए। वेतनमान रु. 425-500 (सं.वे.)। 3 पद अनुसूचित जाति के लिए, 2 पद अनुसूचित जनजाति के लिए तथा दो पद सामान्य जाति के लिए। योग्यता:- भौतिक विज्ञान में स्नातक, कम से कम 55 प्रतिशत अंकों के साथ। पिछले पांच एक साल का अनुभव होना या मेटलर्जिकल इन्जीनियरिंग में स्नातक या समकक्ष या अकादमिक/वैज्ञानिक रसायन, औद्योगिक रसायन या रसायनिक प्रयोगशाला में स्नातक या समकक्ष या रसायनिक इन्जीनियरिंग/मेटलर्जिकल में स्नातक या समकक्ष। आय:- 22 से 30 वर्ष। महिलाएँ आवेदन न करें।

कोटि संख्या 3:- 50 पद गव ओवरसीयर मिस्त्री के लिए। वेतनमान रु. 350-450 (सं.वे.)। 15 पद अनुसूचित जाति के लिए तथा 5 पद अनुसूचित जनजाति के लिए तथा 5 पद भूतपूर्व सैनिकों के लिए आरक्षित है। योग्यता:- किसी मान्यता प्राप्त विश्वविद्यालय में डिप्लोमा। अभ्यर्थी की शारीरिक/वैद्यकीय जांच होनी चाहिए। आय:- 15 से 30 वर्ष। प्रशिक्षण:- वर्तमान नियमों के अधीन होगा। महिलाएँ आवेदन न करें।

कोटि संख्या 4:- 42 पद लेखालिपक ग्रेड 1 के लिए। वेतनमान रु. 330-450 (सं.वे.)। 12 पद अनुसूचित जाति के लिए, 12 पद अनुसूचित जनजाति के लिए तथा 18 पद भूतपूर्व सैनिकों के लिए आरक्षित है। योग्यता:- किसी मान्यता प्राप्त विश्वविद्यालय से स्नातक या समकक्ष। आय:- 15 से 25 वर्ष। महिलाएँ भी आवेदन कर सकती हैं।

कोटि संख्या 5:- 42 पद वरिष्ठ लिपिक का गणनात्मक अधिकारी के लिए। वेतनमान रु. 330-450 (सं. वे.)। 10 पद अनुसूचित जाति के लिए, 10 पद अनुसूचित जनजाति के लिए तथा 10 पद भूतपूर्व सैनिकों के लिए आरक्षित है। योग्यता:- किसी मान्यता प्राप्त विश्वविद्यालय से स्नातक या समकक्ष। आय:- 15 वर्ष। महिलाएँ भी आवेदन करें।

कोटि संख्या 6:- 15 पद वर्गिक के लिए। वेतनमान रु. 250-350 (सं. वे.)। 3 पद अनुसूचित जाति के लिए तथा 3 पद अनुसूचित जनजाति के लिए आरक्षित है। योग्यता:- हाई स्कूल या समकक्ष। आय:- 15 से 25 वर्ष। महिलाएँ आवेदन न करें।

कोटि संख्या 7:- एक पद चार्जमैन विद्युत (वी) के लिए। वेतनमान रु. 425-500 (सं. वे.)। योग्यता:- हाई स्कूल तथा किसी मान्यता प्राप्त संस्थान से इलेक्ट्रिकल इन्जीनियरिंग में डिप्लोमा। किसी विश्वस्त संस्थान में कार्य के अनुभव की वरीयता दी जायेगी। आय:- 15 से 25 वर्ष। महिलाएँ आवेदन न करें।

कोटि संख्या 8:- दो पद वरिष्ठ लिपिक के लिए। वेतनमान रु. 330-450 (सं. वे.)। एक पद अनुसूचित जाति की अभ्यर्थियों के लिए आरक्षित है। योग्यता:- स्नातक या समकक्ष। आय:- 15 से 25 वर्ष। महिलाएँ भी आवेदन करें।

कोटि संख्या 9:- 15 पद वरिष्ठ विज्ञान वसिस्ट के लिए। वेतनमान रु. 450-550 (सं.वे.)। एक पद अनुसूचित जाति के लिए एक पद अनुसूचित जनजाति के लिए तथा एक पद भूतपूर्व सैनिकों के लिए आरक्षित है। एक पद शारीरिक रूप से अपंग अभ्यर्थियों के लिए है। परन्तु उपयुक्त अभ्यर्थी के न मिलने पर बनारस भिन्न माना जायेगा। योग्यता:- किसी इन्जीनियरिंग में स्नातक या एम. एम. आई. 50/ विज्ञान का अनुभव वांछनीय है। आय:- 20 से 30 वर्ष। महिलाएँ आवेदन न करें।

कोटि संख्या 10:- 3 पद प्रशिक्षण चार्जमैन (विद्युत) ग्रेड 11 के लिए। वेतनमान रु. 450-550 (सं. वे.)। एक पद अनुसूचित जाति के लिए एक पद अनुसूचित जनजाति के लिए तथा एक पद भूतपूर्व सैनिकों के लिए आरक्षित है। योग्यता:- विद्युत अभियंत्रण में स्नातक तथा माध्य में किसी विश्वस्त संस्थान में समान स्तर पर कार्य करने का एक वर्ष का अनुभव। आय:- दिनांक 30-6-72 को 21 वर्ष से कम तथा 30 वर्ष से अधिक नहीं होना चाहिए। महिलाएँ आवेदन न करें।

कोटि संख्या 11:- 15 पद चार्जमैन (गैस) ग्रेड 11 के लिए। वेतनमान रु. 450-550 (सं. वे.)। 3 पद अनुसूचित जाति के लिए दो पद अनुसूचित जनजाति के लिए तथा दो पद भूतपूर्व सैनिकों के लिए आरक्षित है। योग्यता:- गैस अभियंत्रण में स्नातक तथा माध्य में किसी विश्वस्त संस्थान में समान स्तर पर कार्य करने का एक वर्ष का अनुभव। आय:- दिनांक 30-6-72 को 21 वर्ष से कम तथा 30 वर्ष से अधिक नहीं होना चाहिए। महिलाएँ आवेदन न करें।

कोटि संख्या 12-14 पद प्रशिक्षण सहायक चार्जमैन (यांत्रिक) ग्रेड III के लिए वेतनमान रु. 425-500 (सं. वे.)। 5 पद अनुसूचित जाति के लिए चार पद अनुसूचित जनजाति के लिए तथा 1 पद भूतपूर्व सैनिकों के लिए आरक्षित है। योग्यता मेकेनिकल इन्जीनियरिंग में डिप्लोमा। समान स्तर में कार्य करने का एक वर्ष का अनुभव वांछनीय है। आय:- दिनांक 30-6-72 को 21 वर्ष से कम तथा 25 वर्ष से अधिक नहीं होनी चाहिए। महिलाएँ आवेदन न करें।

कोटि संख्या 15-21 पद प्रशिक्षण सहायक चार्जमैन (विद्युत) ग्रेड II के लिए। वेतनमान रु. 425-500 (सं. वे.)। चार पद अनुसूचित जाति के लिए दो पद अनुसूचित जनजाति के लिए तथा दो पद भूतपूर्व सैनिकों के लिए आरक्षित है। योग्यता-विद्युत अभियंत्रण में डिप्लोमा। सामान्य स्तर में कार्य करने का एक वर्ष का अनुभव वांछनीय है। आय:- दिनांक 30-6-72 को 21 वर्ष से कम तथा 25 वर्ष से अधिक नहीं होनी चाहिए। महिलाएँ आवेदन न करें।

नोट:- 1 कोटि संख्या 1 और 9 के लिए एक आवेदनपत्र भरें। कोटि संख्या 4, 5 और 11 के लिए भी एक ही आवेदन-पत्र भरें तथा, आवेदन-पत्र में कोटि संख्या और पद की प्राथमिकता लिख दें।

2-लिफाफा के ऊपर निम्नलिखित लिखें—
कोटि सं. — पद — के लिए — आवेदन पत्र।

Ram Singh Jamar
Mirza Jaleel Beg
Ajay Baby

Handwritten signature: T. C. ...

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,

CIRCUIT BENCH, LUCKNOW.

Civil Misc. ^{Petition} Application No. 412 of 1990 (L)

OA 85/90 In Re:

R.S. Panu & Others Applicants.

Versus

Union of India & Others..... Respondents.

Fixed For 28.05.90
02-07-90

APPLICATION FOR VACATION OF INTERIM ORDER

That for the facts and reasons stated in the accompanying Counter Reply, it is most respectfully prayed that in the interest of justice the interim order granted in this case may kindly be vacated and ad-interim order the said effect may also be passed.

Lucknow.

Dated: 25/6/90

Anil Srivastava
(ANIL SRIVASTAVA)
ADVOCATE

Counsel for Respondents.

Recd
duplication
26/6/90
Kansh (Kansh)
Sec. A Manan (Kansh)

P.S.
26/6/90

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,

CIRCUIT BENCH, LUCKNOW.

Civil Misc. ^{Petition} Application No. 413 of 1990 (L)

In Re:

Registration (O. A.) No. 85 of 1990 (L)

R.S. Panu & OthersApplicants

Versus

Union of India & Others.....Respondents

Fixed For 02-07-90

PRELIMINARY OBJECTIONS

That in view of facts and reasons stated in the accompanying Counter Reply, the answering respondents crave leave of this Hon'ble Tribunal to raise the following preliminary legal objections which may be decided before taking up the case on merits.

1. Whether having accepted the offer of appointment for the post of C.G.-I in the year 1986 i.e. prior to their appointment with the stipulated terms and conditions, the applicants are entitled to challenge the same at this stage i.e. in the year 1990 ?
2. Whether more than one applicants can prefer a single petition without any application to join together.?
3. Whether having no cause of action accrued to the applicants, this application would be maintainable ?

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4. Whether without exhausting any departmental remedy available to them under the rules, this application would be maintainable ?

Lucknow.

Dated: 25/6/90

Anil Srivastava
(ANIL SRIVASTAVA)
ADVOCATE

Counsel for Respondents

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IN THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL,
CIRCUIT, BENCH LUCKNOW.

Registration (O.A.) No. ^M 86 of 1990 (L)

R.S. Panu & Others.....Applicants

Versus

Union of India & Others.....Respondents

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Fix For: 02-07-90

COUNTER REPLY ON BEHALF OF ALL THE RESPONDENTS.

I , Ms. Urmila Sharma working as Deputy
Chief Accounts Officer (General), Northern
Railway, Head Quarter Office, Baroda House,
New Delhi, do hereby solemnly affirm and state
as under:-

1. That the abovenamed official is the respondent no.3 herself and as such she is fully conversant with the facts and circumstances of the applicants case and has been authorised by other respondents also to file this reply.
2. That before giving parawise reply to the contents of this original application, the answering respondents wanted to bring the following information to the knowledge of this Hon'ble Tribunal.
3. That pursuant to the Selection, as notified in the said advertisement, the applicants were initially appointed some times in April/May 1986 on terms and conditions specified in their offers of appointment which were duly accepted by them

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Urmila Sharma

prior to their said appointments. The said offer of appointment makes it clear that the applicants would not be confirmed and will be treated as on probation unless they qualify the Appendix-2 examination in two attempts within a period of three years and if they do not qualify the said examination within the said stipulated period and chances, their services would become liable to be discharged. Moreover in the said offers of appointment of the applicants, it has been clearly mentioned that all the rules and policies which will be subsequently issued by the Railway Board ^{will} be applicable to them. It is also not out of place to mention here that in their said offers of appointment, it was also clearly mentioned that if they accept these service conditions, they may report for medical ~~report for medical~~ fitness. The applicants after accepting the aforesaid service conditions reported for medical fitness.

4. That appendix-2 examination as stated in para 167 of Indian Railway Establishment Manual (IREM) is meant for two purposes. Firstly for promotion from Clerk Grade-II (C.G.-II) to Clerk Grade-I and above upto the rank of Sub-Head as indicated by the heading of the said para. Secondly for the confirmation of directly recruited Clerk Grade-I as stated and clarified in the Railway Boards letter dated 24.06.86. Thus it is clear that the rule contained in para 167 of IREM alone is not applicable in case of directly recruited CG-1 as it pertains to promotional categories but the said rule read with aforesaid letter dated 24-06-86 is applicable in case of the directly recruited C.G.-1 for their confirmation.

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5. That here it may be clarified that passing of Appendix-2 examination is a condition precedent for confirmation of directly recruited Clerk Grade-1 candidates. As per the service conditions the directly recruited Clerk Grade-1 (C.G.-1) candidates will be treated as on probation unless they successfully pass the said Appendix-2 examination.

6. That initially an advertisement as contained in Annexure No.-1 to the original application was notified for several posts including Senior Clerks and Clerks Grade-1. As per the advertisement, the candidates were also asked to give their preferences for the advertised posts in one and the same form. It is further clarified here that an advertisement is only a mere invitation to apply for selection and nothing else. It does not confer any right to the applicants in respect of their appointment or service conditions thereof.

7. That in the aforesaid selection, the candidates were selected strictly as per their merit in order of their preference. Here it may again be clarified that the post of Senior Clerk is a post of general nature hence this post does not require any further test of examination for their confirmation but the post of C.G.-1 belongs to Accounts department and is highly professional/technical hence the passing of Appendix-2 examination is a condition precedent for their confirmation.

8. That taking into consideration the technical nature of work required for the post of Clerk Grade-1, and as per merit who were also found qualified for

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the said post were given an offer of appointment as stipulated in chapter 2, para 224 of Indian Railway Establishment Code (Vol-1), before their initial appointment, in which it is specifically stated that if they could not pass the said Appendix-2 examination : in two chances within a period of three years from the date of their appointment, their services would liable to be discharged. However, this period that is from the date of their initial appointment till they pass the said examination will be treated as their probation period but if they pass the said examination they will be confirmed on that post.

Infact direct recruit C.G.-1 undergo training for acquainting themselves with the various procedures of accounts work which is necessary for them to work efficiently in the accounts departments. However, since the direct recruit C.G.-1 enjoy the higher grade of Rs.1200-2040 (RPS) right from beginning i.e, when they join the accounts department. The very idea behind to directly recruit C.G.-1 is to enhance the efficiency of work in accounts department and for that Appendix-2 examination is prescribed to judge their efficiency and suitability for working in accounts department. The basic principle is to take younger hand with higher efficiency and for this purpose they were given two chances within a period of three years to qualify the said examination. The third chance within a period of four years was, in fact, given to them as an additional chances though they were not entitled for the third chance as per their service conditions but it was given to them as a relaxation.

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9. Since the present applicants have themselves accepted the said offer of appointment before their initial appointment without any protest or resistance rather as per their own will and choice hence they can not challenge the same now at this be-lated stage as also there exists a contractual obligation for them to fulfill these basic service conditions which are binding on them and they can not run away from it now.

10. That in reply to the contents of para-1^{of} the application, it is stated that the respondents have not committed any illegal and discriminatory act as alleged. On the other hand the applicants, while taking appointment in Accounts department have willingly accepted certain basic service conditions, thus exists a contractual obligation for the applicants to fulfill those service conditions which are binding on them and they can not run away from it unilaterally.

11. That the contents of para-2 of the application, do not call for reply.

12. That in reply to the contents of para-3 of the application, it is stated, that this original application is not within the limitation as prescribed in section 21 of the Administrative Tribunal Act, 1985. The applicants duly accepted the offer of appointment in the year 1986 itself as per their own sweet will, without any protest or resistance hence they can not challenge this dispute now, at this stage. They are also debarred to challenge the Railway Board's Circular No. 84/ACIII/20/17 dated 24.06.86.

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That reply to the contents of para 4 captioned as 'facts of the case' are as below:-

13. That the content of para 4 (i) of the application are admitted. It is further submitted that by the said advertisement issued by Railway Service Commission, Allahabad, applications were invited for selection of number of posts in various establishments of Northern Railway. The advertisement specified the number of posts as also the essential and desirable qualifications for each category of posts for mass examination to be conducted by the said commission.

14. That the contents of para 4 (ii) of the application are admitted.

15. That in reply to the contents of para 4(iii) of the application, it is further submitted that the applicants on selection by the Railway Service Commission were appointed as C.G.-I in Northern Railway Accounts Department only on the basis of preference indicated by them in their application forms. Here it may be clarified that the applicants might have applied for both the posts i.e. C.G.-I and Senior Clerk but they have given their first preference to C.G.-I and as per their first preference and as per their merit they were appointed for the said post of C.G.-I.

16. That the contents of para 4 (iv) and 4(v) of the application, are admitted.

17. That the contents of para 4(vi) of the

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application are not admitted as alleged. An advertisement is a mere invitation to apply for selection and it does not confer any right on them as such. The applicants were fully aware of passing of the said Appendix-2 examination in two chances within a period of three years from the date of their appointment which was a condition precedent to their confirmation as C.G.-I/J.A.A Grade Ps. 330-560(R.J.)/1200-2040(R.P.S.) as also for their further retention in service in accounts department on specific conditions mentioned in their offers of appointment which was duly accepted by them before their appointment as C.G.-I. Since no departmental examination has been prescribed for Senior Clerks under the service rules hence the inference drawn by the applicants are misconceived and incorrect.

18. That in reply to the contents of para 4(vii) of the application, it is stated that though as per their offer of appointment, they were required to qualify the Appendix-2 examination in two attempts within 3 years but in compliance of Railway Board's said circular dated 24.06.86 (and not circular dated 03.09.86 as alleged) the applicants were allowed all the permissible chances i.e. 3 chances within a period of four years. Thus as per their contractual obligation, they can not claim their retention in accounts department as a matter of their right. The applicants have also not given details of alleged circular dated 03.09.86.

19. That the contents of para 4 (viii) of the application are admitted and it is submitted that the applicants could not qualify even in the said

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three chances. Since their services have not yet been terminated hence this application is premature.

20. That in reply to the contents of para 4 (ix) of the applicati-on, it is most respectfully submitted that the applicants having failed in all the three attempts, no further chances is admissiable to them in view of limitation in number of chances specified in Railway Board Circular dated 24.06.86, hence the applicants are not eligible for the post of C.G.-I any more and their request for additional chance cannot be entertained.

21. That the contents of para 4 (x) and 4 (xi) of the application are categorically denied being misconceived. That applicants duly accepted their offer of appointment for the post of C.G.-I even prior to their appointment in which their confirmation was specifically made a condition precedent to their passing the said examination.

22. That the contents of para 4 (xii) of the applicat-ion are misconceived hence denied. The correct position has already been explained in para 8 of this reply

23. That reply to the contents of para 4 (xiii) of the application has already been given/explained in the preceding paragraphs of this reply specially in paras 6,7and 8 of this reply

24. That the contents of para 4 (xiv) of the application are misconceived hence denied. The applicants were fully aware, even prior to their

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appointment that they will not be confirmed unless they pass the said examination and if they do not pass the said examination ~~parted and chances~~ within the stipulated period and chances, their services would be liable to be discharged. The applicants opted for the post of C.G.-I on their own sweet will knowing fully well the consequences.

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25. That in reply to the contents of para 4 (xv) of the application, it is submitted that the Railway Board after carefully considering the over all view, finally formulated a policy in respect of maximum number of chances to be given to the directly recruited C.G.-I as per the circular dated 24.06.86 and in para 4 of the said circular it is specifically stated that the said orders will be made effective immediatly and past cases should not however, be reopend. Since Sri Attar Singn and Iqbal were given additional Chances prior to 1983-84 i.e. prior to this Railway Board's Circular dated 24.06.86 hence the applicants are not entitled to claim parity with them. Moreover after 1983, no direct recruit C.G.-I was given any additional i.e 4th or 5th chance.

26. That in reply to the contents of para 4 (xvi) of the application, it is stated that the said employees mentioned in this para were appointed under sports quota on different service conditions and for them their retention in service depends upon their performance in sports therefore, their services can not be compared with the services of applicants who were general candidates. Apart from this the said employees are entitled to many more benefits/relaxation which can not be given to the applicants.

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27. That in reply to the contents of para 4(xvii) of the application, it is stated that the applicants themselves opted for the post of Clerk Grade -I.

28. That the contents of paras 4(xviii) to 4(xx) of the application are not admitted except which can be proved through records.

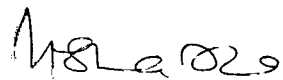
29. That the grounds taken in para 5 of the application are illegal, vague, imaginary, misconceived, false irrelevant and not applicable to this case.

30. That the contents of paras 6 and 7 of the application do not call for comments.

31. That in reply to the contents of paras 8 and 9 of the application, it is stated that in view of the facts and reasons, disclosed in this reply, the applicants are not entitled to any relief rather this original application is liable to be dismissed with costs in favour of the answering respondents.

Lucknow.

Dated:

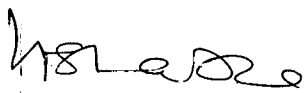

(Ms. Urmila Sharma)

VERIFICATION

I, the official abovenamed do hereby verify that the contents of para 1 of this Counter Reply is true to my personal knowege and those of para 2 to 31 of this Counter Reply are believed by me to be true on the basis of records and legal advice.

Lucknow.

Dated:


(Ms. Urmila Sharma)

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IN THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL

CIRCUIT BENCH AT LUCKNOW

C.A. No. 86 of 1990 (L)

R.S. Panu & others

... Applicants

Versus

Union of India & others

... Respondents

Rejoinder Affidavit to the Counter
Affidavit/Reply on behalf of the
respondents filed by Ms. Urtila Sharma

1. That in reply to the contents of paras 1 and 2 of the Counter Reply need no reply.

2. That the contents of paragraph 3 of the Counter Reply are denied. It is stated that the terms and conditions stated in the appointment order are not in consonance with para 167 of Indian Railway Manual as para 167 states that the directly recruited clerks Grade I will be on probation for one year and will be eligible for confirmation only after passing the prescribed departmental examination in Appendix 2. But in the appointment order said condition what ever stated to the effect that if Appendix 2A examination is not passed in 2 attempts within 3 years, then the services of the applicants shall be terminated. As such the terms and conditions in the appointment order are not in the consonant with the Indian Railway Establishment Manual and cannot be said

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to be a valid and proper terms and conditions. The Opposite Parties are going to terminate the services of the petitioners as the petitioners have not passed appendix 2 examination in 2 attempts within 3 years keeping in view the paragraphs 167 of the Indian Railway Establishment Manual the passing of the appendix 2 A examination is precedent for confirmation and the termination of services is not at all required. As such the petitioners are entitled to continue in service without any hinderence even if they do not passed Appendix 2 examination. The terms and conditions of the appointment order have not been approved and made keeping in view Art. 309 of the Constitution of India. The petitioners were unemployed and as such they joined the services keeping in view the advertisement made by the Railway Service Commission and the provisions of the Indian Railway Establishment Manual.

3. That the contents of paragraph 4 of the counter reply are denied. It is stated that the Railway Board Letter dated 24th June, 1986 was not at the in existence ~~time~~ ~~to~~ time of appointment of the applicants and as such the terms and conditions stated in the appointment order of the petitioners which are contrary to paragraph 167 of the Indian Railway Establishment Manual are not existing. In para 167 shows a specific provision for directly recruited clerk Grade I. The Railway Board circular dated 24th June, 1986 is not applicable

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in case of the applicants as it did not exist at the time of appointment of the petitioner.

4. That the contents of paragraphs 5 & 6 of the Counter Reply are denied. It is stated that that the post of Accounts Clerk Grade I Clerk Grade I and Senior Clerks were advertised through a common advertisement (Annexure No. 1 to the Original Application) and the applicants qualified for both the posts applied. The applicants were not aware at the time of submission of option that Appendix 2A examination is a condition precedent for confirmation for clerk Grade I and as such the condition stated there after by the Opposite Parties are immaterial, irrelevant and non existing. The Opposite Parties allotted the applicants for Clerk Grade I on their own and as such if the petitioners are not suitable for the post of Clerk Grade I which they should be redesignated as Senior Clerk and should be entitled for all benefits of the service already rendered by the applicants.

5. That the contents of paragraph 7 of the Counter Reply are denied. It is stated that the applicants are entitled for change of category as they have qualified in the examination conducted by the Railway Service examination for both the posts and the category of Clerk Grade I was allotted by the respondents on their own. The Respondents allotted the category of Clerk Grade I to the persons higher in merit in the selection board by

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the Railway Service Commission and allotted the post of Senior Clerks to the persons who were lower on the merit in the selection held by the Railway service Commission.

6. That the contents of paragraph 8 of the counter reply are denied. It is stated that para 224 of the Indian Railway Establishment Code is not applicable to the applicants. The services of the applicants cannot be terminated even if appendix 2 A examination is not passed by the applicants as the said conditions is only precedent for confirmation keeping in view paragraph 167 of the Indian Railway Establishment Manual. Para 167 of the Indian Railway Establishment Manual has yet not been amended, keeping in view the Railway Circular dated 24th June, 1986 and as such the Railway Board Circular dated 24th June, 1986 cannot be implemented and applied in the case of the applicants. The applicants have already passed training required for the post of C.G. I and as such the passing of Appendix 2A examination is not at all necessary. The persons selected along with the applicants by the Railway Service Commission have been confirmed who were working on the post of Senior Clerk but the applicants have not been confirmed arbitrarily, and illegally. It is here relevant to be stated that the applicants are agreeing for change of category from Clerk Grade I to Senior Clerk. The Opposite Parties have granted relaxation in attempt for appearing

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appendix 2 examination . Several persons such as Sri S.C. Galla, Atar Singh, and Iqbal etc. were provided more than 2 attempts for appearing in the appendix 2 examination. As such the applicants are also entitled for Additional change.

7. That the contents of paragraphs 9 and 10 of the counter reply are denied and those of para 1 of the application are reiterated as correct. It is stated that the terms and conditions of appointment letter are not in consonance of the Indian Railway Establishment Manual and as such the conditions contrary to the Indian Railway Establishment Manual cannot be implemented. The paragraph 167 of the Indian Railway Establishment Manual has not yet been amended keeping in view the Railway Board circular dated 24th June, 1986. The applicants were selected for the post of Senior Clerks also and as such their category may be changed from Clerk Grade I to Senior Clerk. The Senior Clerks selected and appointed along with the applicants have been confirmed as Senior Clerk as no such condition is precedent for confirmation on the post of Senior Clerk as required in the case of Clerk Grade I of passing appendix 2 examination.

8. That the contents of paragraph 11 of the counter reply need no reply.

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9. That the contents of paragraph 12 of the Counter Reply are denied and 3 of the application are reiterated as correct. It is stated that the application is within limitation as prescribed in section 21 of the administrative tribunals Act, 1985 as the services of the petitioner were to be terminated in the year 1990, and the Opposite Parties were arbitrarily and illegally imposing the condition of passing appendix 2 A examination for continuing in service. The Railway Board circular dated 24th June, 1986 is a non existing and irrelevant circular as it is not in consonance with the Indian Railway establishment manual and as such the Railway Board circular dated 24th June, 1986 cannot be implemented.

10. That in reply to the contents of paragraphs 13 and 14 of the counter reply it is stated that the railway service commission advertised the above post of Senior Clerk and Clerk Grade I at the same time and the applicants applied for both the posts and were selected for both the posts. However the respondents allotted the category of clerk Grade I to the applicants.

11. That the contents of paragraph 15 of the counter reply as alleged are wrong hence denied and those of paragraph 4(iii) of the application are reiterated as correct. It is stated that the applicants were not aware of the conditions of passing appendix 2A examination while submitting

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option as it was not stated in the advertisement as well as even there after till the submission of their option. The applicants thereafter opted for Senior Clerk if a condition of passing the appendix 2 examination would have been stated in the advertisement, at that time as the applicants are not graduates in commerce.

12. That the contents of paragraph 16 of the counter reply need no comments.

13. That the contents of paragraphs 17 and 18 of the counter reply are denied and those of paragraphs 4(vi) and 4(vii) of the application are reiterated as correct. It is stated that in the advertisement the condition of passing appendix 2 A examination was not said and also it was not said that a preference shall be given to a commerce graduate and as such the applicants were not aware that later on a condition precedent to confirmation will be imposed if they opted for Clerk Grade I. The applicants have passed the departmental examination. The work and conduct of the petitioners are to the full satisfaction of his superiors as they have never been warned, punished or censured. The duties of Clerk Grade I and Clerk Grade II are same. The Clerk Grade I do not supervise the work, performed by Clerk Grade II. The educational qualification for Clerk Grade II is matriculation while for Clerk Grade I it is graduate and as such the difference in the pay scale has been maintained.

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The passing of Appendix 2 A examination is not a precedent for confirmation for the post of Clerk Grade II and as such the said condition cannot be imposed in the case of the applicants also. In case of the Clerk Grade I for promotion to the post of Clerk Grade I and sub head the passing of appendix 2 examination is not at all necessary. Where as in the case of Clerk Grade I illegally and arbitrarily the passing of appendix 2 examination has been made a precedent condition for confirmation. The applicants are agreeing for change of their category to Senior Clerk. The Railway Board through a circular dated 20th June, 1989 as stated that the directly recruited clerk Grade I shall be confirmed only after passing of the appendix 2 A examination and it has not been stated that the services of the applicants ^{shall} ~~cannot~~ be terminated. If they do not pass Appendix 2 A examination.

14. That the contents of paragraphs 19, 20 and 21 of the counter reply are denied, and those of paras 4(viii), 4(ix), 4(x) and 4(xi) of the application are reiterated as correct. It is stated that the applicants are entitled for additional chances as it has been granted to others. However the Opposite Parties have arbitrarily and illegally imposed the condition for passing appendix 2 A examination for confirmation in the case of Clerk Grade I. The applicant no. 1, 2 and 4 have availed only 2 attempts in appearing in the appendix 2 examination as in the third attempt they failed.

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feel ill and the exemption for appearing in the examination was granted by the respondents and as such they are entitled for the at least IIIrd chance. The respondents have granted IV chance to Sri S.C.Walia, Atar Singh, and Iqbal and as such the applicants are also entitled for at least 4 chances.

15. That the contents of paragraphs 22, 23 and 24 of the counter reply are denied and the contents of paragraphs 4(xii), 4(xiii), 4(iv) are reiterated as correct. It is stated that in accordance with paragraphs 167 of the Indian Railway Establishment Manual the services of the applicants cannot be discharged even if they do not pass appendix 2 examination. The applicants were not aware while opting that the condition of passing appendix 2 examination will be precedent in confirmation on the post of Clerk Grade I and for continuing in service and as such the option is immaterial. The applicants are agreeing for change of category to Senior Clerk.

16. That the contents of paragraphs 25 and 26 of the Counter reply are denied and those of paras 4(xv) and 4(xvi) of the application are reiterated as correct. It is stated that the applicants are entitled for additional chance as granted to Sri S.C.Walia, Atar Singh and Iqbal. The Railway Board circular dated 24th June, 1986 is not applicable in the case of the petitioner as it does not exist

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at the time of appointment of the applicants and also the fact the said circular is not in consonance with the para 167 of the Indian Railway Establishment Manual. Paragraph 167 of the Indian Railway Establishment manual has not amended till date. The applicants are agreeing for the post of Senior Clerk and along with all service benefits rendered since April, 1986.

17. That the contents of paragraphs 27, 28 and 29 of the counter reply are denied and those of paras 4(xvii), 4(xviii), 4(xix) and 4(xx) and para 5 of the application are reiterated as correct. It is stated that the option submitted by the applicants is of no avail for Opp. Parties as the applicants were not aware of passing the appendix 2 examination till the submission of this option. The applicants for the first time came to know about the appendix 2 examination only through the appointment letter. The applicants have passed in the general rule and procedure and expenditure papers, However they have failed in book keeping paper. The applicants are not commerce graduate and as such they have not been able to pass the book keeping paper.

18. That the contents of paragraph 30 of the counter reply need no comments.

19. That the contents of paragraph 31 of the Counter Reply are denied and those of paragraphs 8 & 9 of the application are reiterated as correct.

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It is stated that the Original Application is full of merits and deserves to be allowed with costs to the applicants.

Place: Lucknow

Dated:

Ram Singh Panu
Applicant
on behalf of applicants

VERIFICATION

I, R.S. Panu, Aged about 31 years, Son of Sri Darban Singh, Resident of C-2529, Rajajipuram Lucknow do hereby solemnly affirm and state on oath and verify that the contents of paragraphs 1 to 19 of this reply are true to my personal knowledge.

Nothing material has been concealed and no part of it is false, so help me God.

Signed and verified on this 25 day of July, 1960 at Lucknow. He is also doing pairvi on behalf of other applicants.

Ram Singh Panu
Applicant
On behalf of all the applicants

I, identify the above named deponent who has signed before me.

Advocat.