

CENTRAL ADMINISTRATIVE TRIBUNAL  
BOMBAY BENCH  
(CAMP: NAGPUR)

Original Application No: 228/92.

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DATE OF DECISION: 13.12.1994.

Shri Tapan Kumar Mukherjee,

Petitioner

Shri V. R. Taskar,

Advocate for the Petitioners

Versus

Union Of India & Others,

Respondents

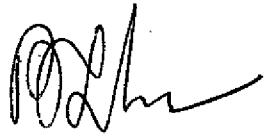
Advocate for the Respondent(s)

CORAM :

The Hon'ble Shri Justice M. S. Deshpande, Vice-Chairman.

The Hon'ble Shri P. P. Srivastava, Member (A).

1. To be referred to the Reporter or not ?
2. Whether it needs to be circulated to other Benches of No the Tribunal ?

  
(P. P. SRIVASTAVA)  
MEMBER (A).

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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

NAGPUR CIRCUIT BENCH, NAGPUR.

O.A. NO.: 228/92.

Shri Tapan Kumar Mukherjee ... Applicant  
Versus  
Union Of India & Others ... Respondents.

CORAM :

Hon'ble Shri Justice M. S. Deshpande, Vice-Chairman.  
Hon'ble Shri P. P. Srivastava, Member (A).

APPEARANCE :

1. Shri V. R. Taskar,  
Counsel for the applicant.

JUDGEMENT :

DATED : 12.12.1994.

¶ Per. Shri P. P. Srivastava, Member (A) ¶.

1. The applicant, who is at present working in Railway Electrification, Nagpur, holds a lien as Senior Clerk grade Rs. 330-560 in the office of the Divisional Railway Manager (P), North Frontier Railway, Katihar. The applicant was transferred on deputation to the Office of the Chief Project Manager, Railway Electrification, Nagpur, with effect from 02.08.1982. In this connection, a copy of the letter issued by the Divisional Railway Manager, Katihar Division, dated 30.07.1982 is placed at Annexure A-3. The applicant has mentioned that the Katihar Division issued a circular calling for application for selection to the post of Labour Welfare Inspector in the scale of Rs. 1400-2300 on 25.03.1991, which is placed at Annexure-A1 as also a letter dated 26.03.1991 for selection to the post of Personal Inspector in the grade of Rs. 1400-2300, which is placed at Annexure-A2. The applicant mentions that



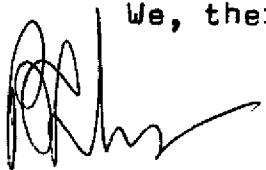
he never received these circulars and therefore, could not apply for these posts, although he was eligible to apply for the same. He came to know about these circulars on his visit to Katihar and made a representation but he has not been permitted to appear for the selection. Aggrieved by this, he has approached this Tribunal with the prayer that he should be permitted to appear for the Selections, which will be held in future, for these posts and he should be given his due seniority in the panel, which has been prepared with reference to the notifications issued in the year 1991, placed at Annexure-A1 and A2.

2. A notice of this B.A. was issued to the Respondents, who have submitted their reply. In the reply, the Respondents have mentioned that the circulars under question at Annexure A1 and A2 calling for the application for the post of Labour Welfare Inspectors and Personal Inspectors, were duly sent to the Railway Electrification, Nagpur. In this connection, they have mentioned that these circulars were despatched and the copy of the same are placed at Annexure R1 and R2 respectively, but from the record it is seen that no annexures to the written statement have been filed by the Respondents. The Applicant has <sup>however</sup> annexed a letter written by Chief Project Manager, Railway Electrification, Nagpur, mentioning that the applicant has not been informed, as they had no information about the same and therefore, the applicant could not appear for the selection for the post of Labour Welfare Inspectors and Personal Inspectors. This letter is placed at Annexure-A9 and is dated 30.07.1991.  
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3. We have heard the Counsel for the applicant and perused the records. In the absence of any documentary evidence produced by the Respondents, it must be

accepted that the applicant did not receive information about the selection to be held for the post of Personal Inspector and Labour Welfare Inspector and that, these circulars were not given to the applicant. In these circumstances, we are of the opinion that the applicant's right to appear for the selection for the post of Labour Welfare Inspectors and Personal Inspectors has been established. Since he could not apply for the post for no fault of his, it would be in the fitness of things, if he is permitted to appear in the next selection, which would be held for the post of Labour Welfare Inspectors and Personal Inspectors. We are not aware if any junior to the applicant has been placed on the panel of the Personal Inspectors and Labour Welfare Inspectors, as the result of the selection, which were conducted in the year 1991, according to annexure A1 and A2. In the absence of this information, we direct that, in case if a person junior to the applicant has been placed on the panel of Labour Welfare Inspectors and Personal Inspectors, then the applicant may be placed on those panels, in case he is successful in the next examination of Labour Welfare Inspectors or Personal Inspectors. Obviously, in case a person junior to the applicant has not been placed on the panel, the applicant would have no case for being considered to be placed on those panels. During the course of hearing, it was revealed that the Katihar Division has already promoted the applicant to the post of Head Clerk in the grade of Rs. 1400-2300 but the date of his promotion is not known. The right of the applicant for being considered for the post of Labour Welfare Inspector or Personal Inspector, would cease after that date, when he has been given the promotion as Head Clerk by the Katihar Division of the North Frontier Railway.

We, therefore, pass the order as under :-



ORDER :

1. The applicant would be given a chance to appear in the next selection (for the post of) Labour Welfare Inspectors or Personal Inspectors.
2. In case a junior to the applicant has been put on panel, as a result of selection held in the year 1991, for the post of Labour Welfare Inspectors or and Personal Inspectors, he would be interpolated in those panel, according to his seniority.
3. He would be offered the post of Labour Welfare Inspector or Personal Inspector, according to his panel position and his pay would be fixed according to the date of promotion which has been given to his juniors on the panel.
4. With the above directions, the O.A. is disposed of. There would be no order as to cost.



(P. P. SRIVASTAVA)

MEMBER (A).



(M. S. DESHPANDE)

VICE-CHAIRMAN.