

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH, BOMBAY

CONTEMPT PETITION(CIVIL) NO. 115 OF 1995

IN

ORIGINAL APPLICATION NO. 1309 OF 1993

DR. A.U. AHMED

.... APPLICANT

VS.

UNION OF INDIA & ORS

.... RESPONDENTS

And

1. Shri S.A.A. Zaidi,
Secretary, Railway
Board, Ministry of
Railways, Rail
Bhawan, New Delhi-1

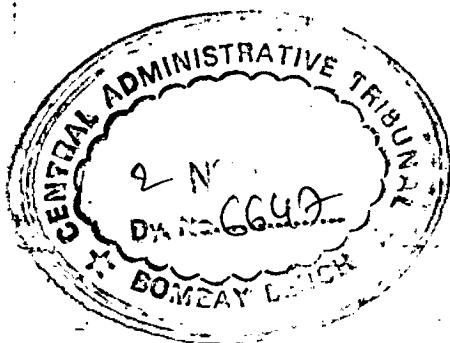
2. Shri A.C. Bakshi,
Joint Secretary (Estt)
Railway Board,
Ministry of Railways
Rail Bhawan,
New Delhi-110 001.

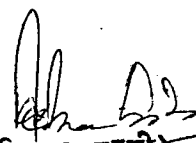
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REPLY ON BEHALF OF THE RESPONDENTS

1. The Respondents submit that the Respondents have the highest regard and respect for the orders of this Hon'ble Tribunal and other courts. The Respondents cannot even think of disobeying the same far less wilfully or deliberately/disregard or show any disrespect to the same.

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(अविनाश बक्षी)
(A. C. BAKSHI)
संयुक्त सचिव (राज.)
Joint Secretary (G)
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Ministry of Railways
नई दिल्ली

2. The Respondents state that there are the following organised Group 'A' services on the Indian Railways :-

- i. Indian Railway Service of Engineers (IRSE)
- ii. Indian Railway Traffic Service (IRTS)
- iii. Indian Railway Service of Mechanical Engineers (IRSME)
- iv. Indian Railway Service of Electrical Engineers (IRSEE)
- v. Indian Railway Stores Service (IRSS)
- vi. Indian Railway Service of Signal Engineers (IRSSE)
- vii. Indian Railway Personnel Service (IRPS)
- viii. Indian Railway Accounts Service (IRAS)
- ✓ ix. Indian Railway Medical Service (IRMS)

3. The cadre of each service consists of the following posts/grades :

Group 'A' Jr. Scale	: Rs.2200-4000/-
Group 'A' Sr. Scale	: Rs.3000-4500/-
Jr. Administrative Grade/	: Rs.3700-5000/-
Selection Grade	: Rs.4500-5700/-
Sr. Administrative Grade	: Rs.5900-6700/-

There are some posts in Grade Rs.7300-7600/- also.

4. In terms of para 203 of Indian Railway Establishment Code, Vol.I, posts in Administrative Grade are Selection posts. Selection is made by a high level committee consisting of members of Railway Board who are of the rank of Secretary to the Government of India.

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5. The Applicant Dr. A.U.Ahmed has filed O.A. No.1309/93 seeking relief of retrospective promotion to JA Grade in Scale Rs.3700-5000 from 1989 with consequential monetary benefits, seniority and payment of arrears etc. and retrospective promotion to Selection Grade (Rs.4500-5700) from February, '92 with consequential monetary benefits.

5(a) The respondents have already filed a detailed parawise counter reply to the aforesaid O.A. on 20.10.94. The Hon'ble Tribunal had passed the following order on 10.2.95 on a Miscellaneous Petition filed by the Applicant :-

"...that the Respondents may consider, whether pending the decision of the O.A. the applicant case be granted adhoc promotion to the Selection Grade, which has already been granted to number of his juniors including Shri(Dr.)B.M.Agarwal."

In this regard, the position is stated in the following paragraphs :-

6. The Respondents state that the claim of Applicant were considered for empanelment to JA Grade in the panel approved by the Competent Authority on

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16.5.95
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Selected 30.10.89, 27.4.91 and 15.12.91. The Respondents state further that findings of DPCs were kept in sealed cover as per prevalent rules.

7. The Respondents state further that on conclusion of disciplinary proceedings the 'Sealed Covers' were opened and it was found that Dr. Ahmed was assessed as 'Not Fit' in the panel approved on 30.10.89 on the basis of performance. In the other two panels, he was assessed as 'Fit' and accordingly his name was interpolated in the Select List approved by the competent authority on 27.4.91 and issued on 13.5.91. He was promoted to JA Grade and was also allowed proforma fixation in Junior Administrative Grade w.e.f. 13.5.91 with reference to the date of promotion of his immediate junior in the panel of JA Grade of 27.4.91.

8. The Respondents state that all the persons who were empanelled in the panel declared on 30.10.89 in which he was not selected have become senior to the Applicant and the Applicant cannot complain about the same. The Respondents state that based on his seniority in JA Grade, the Applicant is not entitled to be placed in Selection Grade of IRMS.

9. The Respondents state that the Respondents have filed the reply to the Original Application stating the correct facts and pointing out the fact that

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the Applicant's grievance for non-placement in Selection Grade is unjustified and not supported by facts. The Respondents crave leave to refer to and rely on the same facts of the case.

10. The Respondents submit that the Applicant is not entitled to be placed in Selection Grade (Rs.4500-5700) from 1.2.92 as the Applicant is not yet entitled to the Selection Grade on the basis of his seniority in JA Grade. Respondents deny that any junior of the Applicant in JA Grade has been promoted to Selection Grade as alleged or otherwise. The Respondents state further that the Applicant has misrepresented facts to the Hon'ble Tribunal by referring to the seniority list of AMOs and DMOs whereas placement of officers in Selection Grade is done on the basis of their seniority in JA Grade. On the basis of this position, the Applicant is not yet entitled for placement in the Selection Grade. The Respondents state that there are more than 200 officers senior to him in JA Grade who have a prior claim for consideration for placement in Selection Grade over the Applicant. A list of such officers is annexed at Annexure R.I.

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11. It is submitted that Dr. B.M. Agarwal, whose name has been mentioned in the orders of the Hon'ble Tribunal dated 10.2.95, is not junior to the applicant. He was selected for JAG in 1989 and was promoted to JAG in 1989. The applicant, however, was not selected in the panel of 1989 and has, therefore, become junior to Dr. B.M. Agarwal and others. As submitted in the preceeding paras, he was selected only in the panel of 274.91 and was promoted on that basis, subsequently. Therefore, Dr. B.M. Agarwal ranks senior to the applicant in JA Grade.

It is submitted that for Selection Grade, only JAG officers are considered in the order of their seniority, and those found suitable by the DPC on the basis of performance as per the selection criteria are considered for placement in Selection Grade.

12. It is also submitted that in terms of Board's letter No.E(O)III-87/PL/1 dated 12.8.87, no officiating arrangements, short-term or long-term are admissible in Selection Grade (Rs.4500-5700). A copy thereof is annexed as Annexure R. II.

13. However, in view of Hon'ble CAT's direction, the case of the applicant has been considered, but he is not entitled to promotion/ad hoc promotion to Selection Grade in view of the facts mentioned above.

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(अतिरिक्त सचिव)
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14. The Respondents have utmost regard and respect for the orders of this Hon'ble Tribunal and have neither flouted the same nor committed any wilful or deliberate breach thereof.

15. The Respondents, therefore, submit and pray that this Contempt Application be dismissed and the notice discharged, and the Respondents pray that the Hon'ble Court may consider fixing the O.A. for final hearing at an early date.

VERIFICATION

I, A.C. BAKSHI, Joint Secretary(G), Railway Board, Ministry of Railways, having my office at New Delhi do hereby verify and state that what is stated hereinabove is based on records and I believe the same to be true.

Verified on this 14th day of October, 1995.

RESPONDENTS.

For Counsel for Respondents

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