

CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR

ORIGINAL APPLICATION NO. 816/2012

DATE OF ORDER: 4th December, 2013

CORAM

HON'BLE MR. ANIL KUMAR, ADMINISTRATIVE MEMBER
HON'BLE MR. A. J. ROHEE, JUDICIAL MEMBER

1. Rati Ram Meena S/o Shri Ram Charan Meena, aged about 38 years, R/o Railway Station Kherli, and presently working as Track Man (Gang No. 13), Kherli under Senior Section Engineer (Public Way), Bandikui, North Central Railway, Bandikui.
2. Chuttan Lal Meena S/o Shri Latur Ram Meena, aged about 48 years, R/o Railway Quarter, Mandawar Railway Station and presently working as Trolley Man under Senior Section Engineer (Public Way), Bandikui, North Central Railway, Bandikui.
3. Bachhan Lal Meena S/o Shri Narayan Meena, aged about 30 years, R/o Railway Station Mandawar and presently working as Gate Man (Gate No. 83), under Senior Section Engineer (Public Way), Bandikui, North Central Railway, Bandikui.
4. Mukesh Kumar Bairwa S/o Shri Samotya, aged about 32 years, R/o Railway Colony Bandikui and presently working as L.R. Gate Man (Gang No. 19), under Senior Section Engineer (Public Way), Bandikui, North Central Railway, Bandikui.

...Applicants

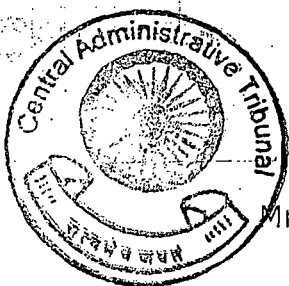
Mr. C.B. Sharma, counsel for applicant.

VERSUS

1. Union of India through General Manager, North Central Zone, North Central Railway, Allahabad (U.P.).
2. Divisional Railway Manager (P), North Central Railway, Agra Division, Agra (U.P.).
3. Senior Divisional Engineer (Coordination), North Central Railway, Agra (U.P.).
4. Senior Section Engineer (Public Way), North Central Railway, Bandikui.

...Respondents

Mr. M.K. Meena, counsel for respondents.



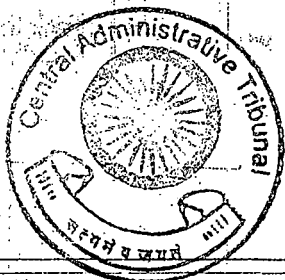
This annexure is the True Copy
of original document.

(Signature)
(C. B. Sharma)
Advocate

ORDER**(PER MR. A. J. ROHEE, JUDICIAL MEMBER)**

By this application under Section 19 of the Administrative Tribunals Act, 1985, the applicants, who are working under the respondent no. 2, seek direction to give effect to the panel dated 11.07.2012 (Annexure A/6) and to promote them to the cadre of Senior Permanent Way Supervisor in the pay band of Rs. 9300-34800 with grade pay of Rs. 4200 by quashing impugned order/letter correspondence dated 26.11.2012 (Annexure A/1) issued by the respondent no. 2 with all consequential benefits.

2. The facts of the case in brief are that the applicants are working as Track Man, Trolley Man, Gate Man and L.R. Gate Man, respectively, at Bandikui in North Central Railway. A process to fill up 25% quota of departmental candidates for promotional post of Senior Permanent Way Supervisor by holding departmental examination was initiated by the respondent no. 2 vide notification dated 17.09.2010. Since the applicants came in the zone of consideration, they appeared for the written examination held on 16.01.2011. However, subsequently, the said written examination was cancelled vide letter dated 04.08.2011 by the department and another notification was issued on 15.02.2012 for filling up those posts by raising it from 18 to 24 i.e. OC-16, SC-5 and ST-3. This time also the applicants appeared for the written examination held on 03.06.2012 and were declared successful. They were placed on the panel / select list vide letter dated 11.07.2012 (Annexure



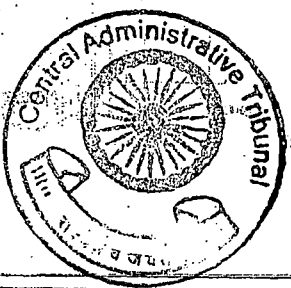
This annexure is the True Copy
of original document.

(Signature)
(C. B. Sharma)
Advocate

A/6). They also opted for undergoing training for the said promotional post. However to their surprise, the respondent no. 2 vide impugned order / letter dated 26.11.2012 (Annexure A/1) cancelled the panel / select list without recording any reason.

3. The applicants have challenged the action of cancellation of the panel / select list as arbitrary, illegal, beyond the competence of the respondent no. 2 and with a view to deprive the applicants and other similarly situated from enjoying the fruits of the promotional post. It is also stated that the same is violative of the provisions of Article 14, 16 and 21 of the Constitution of India. The applicants have, therefore, approached this Tribunal to seek the necessary relief.

4. On notice, the respondents appeared and resisted the claim by way of reply dated 04.09.2013 denying the fact that the cancellation of the written examination initially held on 16.01.2011 and subsequent cancellation of the panel / select list was arbitrary exercise of powers or that the same is illegal and it violates any rights of the applicants. It is not disputed that the applicants came in the zone of consideration for the promotional post and that they qualified the written test and were provisionally empanelled vide letter dated 11.07.2012 (Annexure A/6). However, subsequently on the instructions received from the Vigilance Organization of North Central Railway, Headquarters, Allahabad, the panel / select list was cancelled on the grounds that some complaints were received and that some irregularities were noticed in evaluation of answer-sheets of the



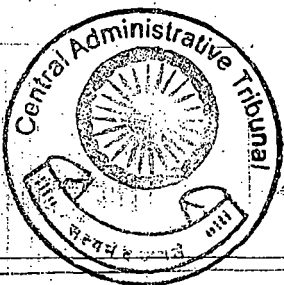
This annexure is the True Copy
of original document.

G. B. Sharma
(C. B. Sharma)
Advocate

written examination. Hence, on the advice of the Vigilance Organization, the panel / select list was cancelled by the impugned order / letter annexure A/1 with the approval of the competent authority, to initiate the fresh process of selection. The letter issued by the Deputy Chief Vigilance Officer (Mech.), North Central Railway, Allahabad dated 04.10.2012 is at Annexure R/2. The action proposed by the Vigilance Department and undertaken by the respondent no. 2 is, thus, perfectly legal and valid which calls for no interference by this Tribunal. It is also submitted that before the concurrent Bench of Central Administrative Tribunal, Allahabad, five employees from the panel / select list filed O.A. No. 1771/2012 seeking the same relief and vide order dated 03.07.2013, the said O.A. was partly allowed and the impugned order dated 26.11.2012 was set aside. This being so and since the applicants are similarly situated, the present Original Application deserves to be dismissed.

5. We have heard the oral submissions of Shri C.B. Sharma, learned Advocate for the applicants and Shri M.K. Meena, learned Advocate for the respondents. We have also carefully perused the entire pleadings of the parties, material produced on record, and have given thoughtful consideration to the submissions.

6. The only point that arises for our consideration is whether the applicants are entitled to the relief sought. We record our finding partly in the affirmative for the following reasons:

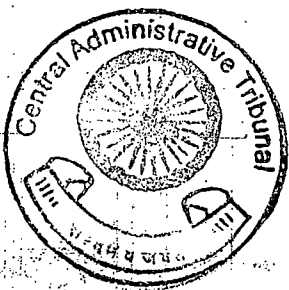


This annexure is the True Copy
of original document.

(C. B. Sharma)
Advocate

REASONS

It is obvious from record that the factual position about the status of the applicants in OA No. 1771/2012 decided on 03.07.2013 by the Central Administrative Tribunal, Allahabad Bench and the fact that panel / select list of 22 persons was prepared including the applicants in O.A. of Allahabad Bench and the present O.A. and that the same was duly approved is not disputed. The selected candidates were to undergo training. However, before that on account of intervention of Vigilance Organization in pursuance of some complaints received regarding alleged irregularities in holding the written examination and evaluation of the answer-sheets, the enquiry was held which led cancellation of the entire panel / select list vide annexure A/1. There is a substantial force in the contention of the learned advocate of the respondents that a provisional / select list was prepared and the successful candidates were required to undergo and complete the training satisfactory and then only such candidates can be posted on to work on promotional post. However, as stated earlier before this exercise was undertaken and completed, on the advice of the vigilance, the provisional panel / select list was cancelled. The authority of the Vigilance Organization to re-evaluate answer-sheets to find out if any irregularities are committed in undertaking the process of selection has been elaborately discussed by the Allahabad Bench of the Tribunal in the aforementioned O.A. No. 1771/2012 and on the basis of the report submitted by the Vigilance Department, it was noticed that out of 22 officials from the panel

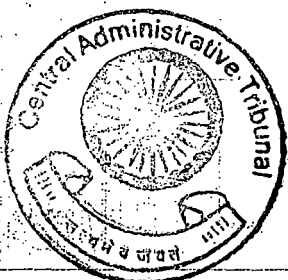


This annexure is the True Copy
of original document.

(C. E. Sharma)
Advocate

/ select list, irregularities in respect of 07 candidates were detected by the Vigilance Department in connection with allotment of marks. The inquiry report of the Vigilance Department was also produced before Allahabad Bench for its perusal, as recorded therein. The concurrent Bench of Central Administrative Tribunal, Allahabad Bench, therefore, while allowing the O.A. No. 1771/2012 set aside the impugned order dated 26.11.2012 (Annexure A/1) with a direction to keep the select panel dated 11.07.2012 intact, excluding the seven candidates against whom the vigilance department has detected irregularities in connection with awarding of marks. Photocopy of certified copy of the order dated 03rd July, 2013 passed by Central Administrative Tribunal, Allahabad Bench in said OA No. 1771/2012 is produced on record by the respondents vide Annexure R/4. Its perusal clearly shows that before coming to a conclusion, the ratio laid down by Hon'ble Apex Court on relevant aspect is elaborately considered. Since the issue involved in the present case is already decided by the concurrent Bench, this Bench cannot take a different view and the said finding will be binding on this Bench also. If any of the applicants of this O.A. are included in the seven candidates in respect of which Vigilance Department detected irregularities, such candidates will not be able to get the benefit of this order.

7. Before concluding, it may be mentioned that it is not known if the respondents in Original Application before the Allahabad Bench have ever challenged the order dated 03rd July, 2013 passed by the said Tribunal in OA No. 1771/2012 partly allowing



This annexure is the True Copy
of original document.

G. B. Sharma
(C. B. Sharma)
Advocate

the prayer made therein. Even if challenged, the fate of the applicants in present OA will also be governed by the orders of the Hon'ble High Court.

8. With this discussion, we conclude and direct that the impugned order dated 26.11.2012 (Annexure A/1) is partly set aside so far as it relates to the seven candidates against whom the Vigilance Department has detected irregularities in connection with awarding of marks in the examination.

9. The respondents are directed to take further necessary steps in this regard, of course subject to any orders passed by the Hon'ble High Court of Judicature at Allahabad, Hon'ble Rajasthan High Court or other higher courts in this behalf, in case, this order is challenged by the applicants or the respondents.

10. With the above directions, the Original Application stands disposed of, however, with no orders as to costs.



[Signature]

(A. J. ROHÉE)

JUDICIAL MEMBER

[Signature]

(ANIL KUMAR)

ADMINISTRATIVE MEMBER

kumawat

As in the original document is a True Copy

As in

And

There

fully

copy

4/1/13

Copy

Clerk

Security

CAT, Jaipur Bench

OA 816/12

This annexure is the True Copy
of original document.

[Signature]
(C. E. Sharma)