IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR

Date of order: 10.11.2000

OA No.378/1999

1. Satya Narain Singh Verma S/o Shri Badri Prasad, r/o House No.01, Meena Mohalla, Gangapur City, Distt. Sawai Madhopur.
2. Khen Chand Chaturvedi S/o Shri Bhagwati Prasad, r/o Jawahar Nagar Colony, Gangapur City, Distt. Sawai Madhopur
3. Rajendra Kumar Verma S/o Shri Babu Lal Verma r/o Carriage Colony, Gangapur City, Distt. Sawai Madhopur.
4. Hafiz Ahmed Khan S/o Shri Hanif Ahmed Khan r/o H.K.Super Furniture, Govind Chauraha, Jhansi (UP).

.. Applicants

Versus

1. Union of India through the Secretary, Railway Board, Rail Bhawan, New Delhi.
2. The General Manager, (Establishment), Western Railway, Churchgate, Mumbai.
3. The Chairman, Railway Recruitment Board, Ajmer.

.. Respondents

Mr. P.V.Calla, counsel for the applicants

Mr. M.Rafiq, counsel for the respondents

OA No.444/99 with MA No.372/2000

Suresh Chand S/o Shri Jagannath Singh, resident of C/o Mahender Singh Choudhary, Plot No.3, Near Tagore Public Academy, Shri Ramnagar Extension, Jhotwara, Jaipur

.. Applicant

Versus

1. Union of India through the Secretary, Ministry of Railways, New Delhi.
2. Railway Selection Board, Ajmer, 2010 Nehru Marg, Ajmer through its Chairman.
3. The General Manager, (Establishment), Western Railway, Churchgate, Mumbai.

.. Respondents

Mr. S.S.Ali, counsel for the applicant

Mr. M.Rafiq, counsel for the respondents

OA No.105/2000

1. Jitendra Kumar S/o Shri Ram Pratap Bhagat r/o village Lochhua, Post Mahuba Bhaya Sitamadhi, Distt. Sitamadhi (Bihar).
2. Suresh Prasad S/o Ram Bahal Singh, r/o village post Muzonna Bhaya, Dighwara, Distt. Saran (Bihar).
3. Amarnath Sah S/o Shri Ram Chand Sah, r/o village Shivganj, post Bidupur, District Vaishali (Bihar).
4. Mahesh Prasad S/o Shri Ram Prasad r/o village post Kanholi, Bhaya Bhutahi, Distt. Sitamadhi (Bihar).
5. Anil Kumar Chaudhary S/o Shri Ram Nandan Chaudhary r/o village Orlahia, Post Maudah, Bhaya Riga, Distt. Sitamadhi (Bihar).
6. Dharam Nath Sah S/o Shri Ram Chandra Sah r/o village Shivganj, Post Bidupur, Distt. Vaishali (Bihar)

Versus

1. Union of India through the Secretary, Railway Board, Rail Bhawan, New Delhi.
2. The General Manager, (Establishment), Western Railway, Churchgate, Mumbai.
3. The Chairman, Railway Recruitment Board, Ajmer.

.. Respondents

Mr. P.V.Calla, counsel for the applicants

Mr. M.Rafiq, counsel for the respondents

OA No.355/1999 with MA No.371/2000

1. Irshad Ahmed Siddiki S/o late Shri Jahur Amhed Siddiki, r/o A-3, Deen Dayal Nagar, Nandpura, Sipri Bazar, Jhansi.
2. Jung Bahadur S/o Isham Singh r/o C/o Shri Dayaram, Ambedkar

Nagar, Haridwar.

3. Rajeev Kulshresth S/o Shri Lalitendra Kumar r/o Iradat Nagar, Agra (UP)

4. Kamal Singh s/o Shri Tula Ram r/o 144/EA, Railway Colony, Bharatpur.

5. Yashpal Singh S/o Shri Sripat Singh r/o village Prabhvipura, post Behrawati, Distt. Agra.

6. Anoop Kumar Khare S/o Kailash Shankar Khare,r/o 686/9 Tandan Compound, Sipri Bazar, Jhansi.

7. Swadesh Kumar Srivastava S/o Shri Suresh Chand Srivastava r/o Vardhman Farm, 200 Azad Ganj, Jhansi.

8. Sanju Maithu s/o Shri P.K.Maithu r/o 246/11 Maithi Bangla Nainagarh Nagra, Jhansi.

9. Mahesh Kumar s/o Shri Veer Singh r/o House No. 501, Kethwara Post Office, Silampur, North East Delhi.

10. Vidhtha Ram s/o Ram Singh r/o village Bhupal Garhi, PO Amamdapur District Aligarh.

11. Prem Lal Bheel S/o Shri Ratan Lal Bheel r/o village sanariya Kheda, Post office Kabra, Distt. Rajsamand.

12. Mohan Swaroop Saraswat S/o Shri Mool Chand Saraswat r/o village and post Magoda, Distt. Mathura.

13. Ramesh Chand Saraswat S/o Shri Mool Chand Saraswat r/o village and post Nagoda, Distt. Mathura.

14. Mahaveer Singh S/o Shri Badan Singh r/o village and post Pachwar, Distt. Mathura.

15. Balbeer Singh S/o Shri Khen Chand Yadav r/o K.D.A. Inter College, Pachawar, Mathura.

16. Dinesh Kumar Saraswat S/o Shri Bhagwan Saraswat r/o village and post Achnera, Mohalla Bajhera Station Road, H.No.1888, Distt. Agra.

17. Prem Kumar S/o Shri Satpal r/o 406, New Govindpuri, Kankar Kheda, Meerut Chhavani.

.. Applicants

Versus

1. The Unon of India through the Secretary, Ministry of Railways, New Delhi.
2. Railway Selection Board, Ajmer, 2010 Nehru Marg, Ajmer through its Chairman.
3. The General Manager (Estt.), Western Railway, Churchgate, Mumbai.

.. Respondents

Mr. S.S.Ali, counsel for the applicants

Mr. M.Rafiq, counsel for the respondents

OA No.119/2000

1. Mukesh Kumar Jain s/o Shri Radhey Shyam r/o 88 Shri Ram Nagar, Alwar.
2. Dinesh Kumar Singh s/o shri Surendra Prasad Singh, V & P Bhagwanpur, Distt. Jahanabad, Bihar.
3. Ram Prakash Singh s/o Shri Vishnu Chand, r/o 186/A-1,Vasant Lane, Railway Colony, New Delhi.
4. Ramesh Chand S/o Shri Hari Prasad R/o V&P Jhatoj via Mursan, Hatharas.
5. Mahesh Chand S/o Shri Hari Khayal Singh r/o No.179/D-4, Vasant Lane, Railway Colony, New Delhi.
6. Rajveer Singh S/o Shri Bharat Singh r/o Village and post Shersha, Mathura.
7. Ravindra Singh S/o Shri Lala Ram, r/o 44, Topkhana, Meerut.
8. Surendra Kumar S/o Shri Harkesh Singh r/o House No.AZ/172, Loni Road, Shahdara, Delhi.
9. Arun Kumar S/o Shri Ram Das r/o A-262, Gali No.2, Loni Road, Shahdara, Delhi.
10. Pradeep Kumar Nagar S/o Shri Balveer Singh, r/o 7-C, Tis Hazari, Delhi.
11. Hukan Singh S/o Shri Devi Singh Bhardwaj r/o 104,

Chikitasalaya Marg, Nagda, Ujjain.

12. Akhilesh Kumar s/o Shri Ram Prasad Pandit r/o village Chauhata, Distt. Vaishali, Bihar.

13. Abhitab s/o Shri Hit Lal Sah, r/o village and post Musharniya Police Station Sonbarsa, Distt. Sitamarhi.

14. Nasruddin s/o Shri Faijuddin, r/o village and post Makhanpur, Distt. Firozabad.

15. Srichand s/o Shri Mangal Singh r/o Village and post Shersha, Mathura.

.. Applicants

Versus

1. Union of India through the Secretary to the Government, Railway Board, Rail Bhawan, New Delhi.

2. The General Manager, (Establishment), Western Railway, Churchgate, Mumbai.

3. Railway Recruitment Board through its Chairman, Ajmer.

.. Respondents

Mr. P.V.Calla, counsel for the applicants

Mr. M.Rafiq, counsel for the respondents

OA No.347/2000 & MA No.373/2000

Abdul Sattar Ansari s/o Shri Rustam Khan Ansari r/o Behind Verma Traders, Bapu Colony, Rangpur Road, Kota Junction.

.. Applicant

Versus

1. The Union of India through the Secretary, Ministry of Railways, New Delhi.

2. Railway Selection Board, Ajmer 2010, Nehru Marg, Ajmer through its Chairman.

3. The General Manager (Estt.), Western Railway, Churchgate, Mumbai.

the applicant filed separate MAs for joining together in one application, and that was also allowed. Meanwhile, the applicants also filed an M.A. for amending the application, seeking to challenge of the order at Annexure A/A1 dated 29.06.2000, and that application has also been allowed.

5. It is the case of the applicants that the impugned order vide Annexure A/A1 is illegal and without jurisdiction. They have stated that the respondents have cancelled the result only on the basis of the CBI report, alleging malpractice against the Chairman, Member Secretary and other Members of the Committee. They have also stated that, after cancelling the result vide Notification dated 11.9.98 (Annexure A/6) regarding 13 categories of posts in Notice No. 1/97 and 2/97, they have re-advertised these posts vide Notice No. 1/98, which could not have been done without first appointing the applicants on the basis of the results declared vide Annexure A/3 dated 8.3.98. They have stated that the applicant are having requisite qualifications and they are eligible for appointment. The learned counsel for the applicant stated that the impugned order vide Annexure A/1A has been issued only on the basis of Central Bureau of Investigation's (CBI, for short) enquiry and the chargesheet. But, on the basis of the CBI enquiry, it cannot be said that there was any allegation against the Chairman and the Members of the Selection Committee, regarding categories No. 15 and 18 found in Notice No. 1/97. The entire chare-sheet relates to the allegations against the Chairman and Members of the Selection Committee regarding certain categories of posts in Notice No. 2/97, but not the impugned categories in Notice No. 1/97. Therefore, a reference made in the charge-sheet regarding Apprentice Diesel Assistant/Assistant Electrical Driver as category No. 19 is relatable to Notice No. 2/97, but not the Notice No. 1/97. Therefore, the chargesheet is nothing to do with the category No. 18 of Notice No. 1/97. The period of alleged malpractice is from May, 1997 to March, 1998, whereas the final result of the

applicants was published vide Annexure A/3 dated 8.3.98. Therefore, those allegations cannot be taken as allegations regarding selection of the applicants in category Nos. 15 and 18 vide Notice No. 1/97. Therefore, cancelling the result of category Nos. 15 and 18 of Notice No. 1/97, is illegal. The Board has not applied its mind before cancelling this result. The respondents have simply accepted the report of the CBI mechanically without making their own investigation and without any material of their own. Therefore, the impugned cancellation based only on the CBI report, is illegal. Theefore, the impugned order vide Annexure A/A1 dated 29.06.2000, deserves to be quashed.

6. By filing reply, the respondents have denied the case of the applicants. So far as calling for applications, conducting the written test and publishing the result vide Annexure A/3 etc., the respondents have not denied the same. But, meanwhile, the CBI upon receipt of information through reliable sources has revealed that during the period from May, 1997 to March, 1998, the officials of the RRB, Ajmer, namely S/Shri Kailash Prasad, Chairman, K.R. Meena, Member Secretary and non-official Members S/Shri Suraj Mal Kardam, Dr. Amar Pal Joshi, Nasir Ali Alvi, Balvir Singh Prajapat and Taj Mohammed, entered into a criminal conspiracy in order to extend undue favour to undeserving candidates in the recruitment process to various posts conducted by the RRB. We think it appropriate to extract the relevant paragraphs No. 4(i), as under:-

> 4(i) That the contents of para No. 4(i) of the Original Application are not denied to the extent that all the applicants being eligible to tbe considered for appointment to the post of Apprentice Diesel Assistant/Assistant Electrical Driver pursuant to an advertisement No. 1/97. It is also not denied that a fresh advertisement bearing No. 1/98 has been issued for filling up the posts of Apprentice Diesel Assistant/Assistant Electrical Driver giving a category No. 16. Rest of the contents of this para are not admitted in the manner stated and are replied in terms that the Central Bureau of Investigation upon receipt of an information through reliable source registered a criminal case against the officials of Railway Recruitment Board and during the course of investigation in the aforesaid case, the CBI conducted a raid in the office of RRB, Ajmer, on 29.03.1998. In the investigation, CBI found a large scale bungling and major irregularities having been committed with regard to the selections/interviews conducted by Dr. Kailash Prasad, the then Chairman, RRB, Ajmer. and, therefore,

the matter was forwarded to the Railway Board. The Railway Board is seized of the matter and upon examination has already cancelled the selection with regard to 13 categories. The decision regarding cancellation of present category, i.e. category No. 18, is pending consideration with the Railway Board and it is expected that the Board shall soon take a decision. Since operation service i.e., to run the trains is very essential, there was nothing wrong in advertising the notification for fresh vacancy. It is denied that the applicants would be deprived of from their legitimate claim of appointment. In case the Railway Board shall take a decision to give appointment to the selected candidates of category No. 18, there would be no loss to the applicants."

7. From the above counter, it is seen that it is the case of the respondents that the impugned order vide Annexure A/A1 has been issued, cancelling the result of the applicants only on the basis of the report submitted by CBI for bungling and major malpractice committed with regard to selection and interview by the Chairman and Members of the Board. They have also stated that the candidates who appeared in the earlier selection would be called for written examination afresh. The learned counsel appearing for the respondents took us thorugh the enquiry report submitted by the CBI, MA/2 in MA No. 319/2000, and contended that the investigation of the CBI clearly revealed that an amount of Rs. 5,85,012.75 was recovered from the Chairman, RRB, on 28.3.98, while he was travelling from Ajmer to Delhi by Shatabdi Express. In fact, he was caught at Jaipur Railway Station on his way to Delhi. He further submitted that according to the said chargesheet various amounts in cash as well as fixed deposits and incriminating documents were recovered from the travelling parties, i.e. the Chairman and Members of the RRB. The CBI has clearly stated that such malpractice has been committed even regarding Apprentice Diesel Assistant/Assistant Electrical Driver. They have further stated that category No. 18 noted in the charge-sheet is relatable to Notice No. 1/97, but not Notice No. 2/97. Even assuming that there is a mistake in mentioning Notice No. 2/97 instead of 1/97, the report clearly gives the designation of the posts of Apprentice Diesel Assistant/Assistant Electrical Driver, and no doubt would be left regarding selection to these posts, malpractice was committed

Chikitasalaya Marg, Nagda, Ujjain.

12. Akhilesh Kumar s/o Shri Ram Prasad Pandit r/o village Chauhata, Distt. Vaishali, Bihar.

13. Abhitab s/o Shri Hit Lal Sah, r/o village and post Musharniya Police Station Sonbarsa, Distt. Sitamarhi.

14. Nasruddin s/o Shri Faijuddin, r/o village and post Makhanpur, Distt. Firozabad.

15. Srichand s/o Shri Mangal Singh r/o Village and post Shersha, Mathura.

.. Applicants

Versus

1. Union of India through the Secretary to the Government, Railway Board, Rail Bhawan, New Delhi.

2. The General Manager, (Establishment), Western Railway, Churchgate, Mumbai.

3. Railway Recruitment Board through its Chairman, Ajmer.

.. Respondents

Mr. P.V.Calla, counsel for the applicants

Mr. M.Rafiq, counsel for the respondents

OA No.347/2000 & MA No.373/2000

Abdul Sattar Ansari s/o Shri Rustam Khan Ansari r/o Behind Verma Traders, Bapu Colony, Rangpur Road, Kota Junction.

.. Applicant

Versus

1. The Union of India through the Secretary, Ministry of Railways, New Delhi.

2. Railway Selection Board, Ajmer 2010, Nehru Marg, Ajmer through its Chairman.

3. The General Manager (Estt.), Western Railway, Churchgate, Mumbai.

.. Respondents

Mr. S.S.Ali, counsel for the applicant

Mr. M.Rafiq, counsel for the respondents

OA No.573/1999

1. Sanjay Kumar s/o Shri Janardhan Singh, r/o Baghmali, Hajipur, Vaishali, Bihar.
2. Shiv Kumar Jha s/o Shri Ram Vriksh Jha c/o Store Keeper, Electricity Department, Phatwa Power House Grid, Patna, Bihar.
3. Anil Kumar Jha s/o Shri Akhilesh Jha r/o village and post Narayanpur, Derhpura via Jandaha, Distt. Vaishali, Bihar.
4. Prashant Kumar s/o Shri Heeralal Gupta r/o Near IMA Hall, PO Ramna, Club Road, Mazaffarpur, Bihar.
5. Arvind Kumar s/o Shri Bharat Prasad Singh c/o Dr. Madanji, North from ITI College, Adalwari, Hazipur, Bihar.

.. Applicants

Versus

1. Union of India through the Secretary to the Government, Railway Board, Rail Bhawan, New Delhi.
2. The General Manager (Estt), Northern Railway, Baroda House, New Delhi.
3. The Railway Recruitment Board, 2010, Nehru Marg, Ajmer through its Chairman

.. Respondents

Mr. P.V.Calla, counsel for the applicants

Mr. M.Rafiq, counsel for the respondents

CORAM:

Hon'ble Mr. Justice B.S.Raikote, Vice Chairman

Hon'ble Mr. N.P.Nawani, Administrative Member

Order

Per Hon'ble Mr. Justice B.S.Raikote, Vice Chairman

Though these cases were posted under the caption of admission, with the consent of parties, all these cases were taken for final hearing. The learned counsel also submitted that instead of considering their M.A. for interim relief, it would be better if the cases are disposed of on merits once for all.

2. All these applications raise common questions of law and facts, hence, we are disposing all of them by this common judgement.

3. All these applications are filed for quashing letter dated 29.06.2000 (Annexure A/1A) issued by the respondent No. 3, so far it relates to category No. 15, i.e. Probationary Assistant Station Masters and category No. 18, i.e. Apprentice Diesel Assistant Driver/Assistant Electrical Driver. The further relief of the applicants is that there shall be a direction to the respondents to consider the case of the applicants for providing appointment on the said post on the basis of the results declared by the Railway Recruitment Board (RRB, for short), dated 8.3.98 vide Annexure A/3. They have further prayed that the respondents should be directed to provide such appointments from the due date when the posts become available.

4. In support of the prayer, the applicants have stated that vide Notice No. 1/97 dated 30.7.97, applications were called for seletion for total 18 categories of posts. The applicants have stated that they appeared in the written test held on 09.11.97, the result of which was published on 25.12.97. Thereafter, they appeared in the interview/ psychological test between 29.12.97 to 09.01.98. Accordingly, the result of the successful candidates were declared on 8.3.98 vide Annexure A/3. They have stated that as per the said result vide Annexure A/3, they have passed in the written examination. Apprehending cancellation of selection, the applicants filed present OAs, but meanwhile, vide order Annexure A/1A dated 29.06.2000, their selections have been cancelled regarding both the categories of posts. Thereafter,

the applicant filed separate MAs for joining together in one application, and that was also allowed. Meanwhile, the applicants also filed an M.A. for amending the application, seeking to challenge of the order at Annexure A/A1 dated 29.06.2000, and that application has also been allowed.

5. It is the case of the applicants that the impugned order vide Annexure A/A1 is illegal and without jurisdiction. They have stated that the respondents have cancelled the result only on the basis of the CBI report, alleging malpractice against the Chairman, Member Secretary and other Members of the Committee. They have also stated that, after cancelling the result vide Notification dated 11.9.98 (Annexure A/6) regarding 13 categories of posts in Notice No. 1/97 and 2/97, they have re-advertised these posts vide Notice No. 1/98, which could not have been done without first appointing the applicants on the basis of the results declared vide Annexure A/3 dated 8.3.98. They have stated that the applicant are having requisite qualifications and they are eligible for appointment. The learned counsel for the applicant stated that the impugned order vide Annexure A/1A has been issued only on the basis of Central Bureau of Investigation's (CBI, for short) enquiry and the chargesheet. But, on the basis of the CBI enquiry, it cannot be said that there was any allegation against the Chairman and the Members of the Selection Committee, regarding categories No. 15 and 18 found in Notice No. 1/97. The entire chare-sheet relates to the allegations against the Chairman and Members of the Selection Committee regarding certain categories of posts in Notice No. 2/97, but not the impugned categories in Notice No. 1/97. Therefore, a reference made in the charge-sheet regarding Apprentice Diesel Assistant/Assistant Electrical Driver as category No. 19 is relatable to Notice No. 2/97, but not the Notice No. 1/97. Therefore, the chargesheet is nothing to do with the category No. 18 of Notice No. 1/97. The period of alleged malpractice is from May, 1997 to March, 1998, whereas the final result of the

applicants was published vide Annexure A/3 dated 8.3.98. Therefore, those allegations cannot be taken as allegations regarding selection of the applicants in category Nos. 15 and 18 vide Notice No. 1/97. Therefore, cancelling the result of category Nos. 15 and 18 of Notice No. 1/97, is illegal. The Board has not applied its mind before cancelling this result. The respondents have simply accepted the report of the CBI mechanically without making their own investigation and without any material of their own. Therefore, the impugned cancellation based only on the CBI report, is illegal. Theefore, the impugned order vide Annexure A/A1 dated 29.06.2000, deserves to be quashed.

6. By filing reply, the respondents have denied the case of the applicants. So far as calling for applications, conducting the written test and publishing the result vide Annexure A/3 etc., the respondents have not denied the same. But, meanwhile, the CBI upon receipt of information through reliable sources has revealed that during the period from May, 1997 to March, 1998, the officials of the RRB, Ajmer, namely S/Shri Kailash Prasad, Chairman, K.R. Meena, Member Secretary and non-official Members S/Shri Suraj Mal Kardam, Dr. Amar Pal Joshi, Nasir Ali Alvi, Balvir Singh Prajapat and Taj Mohammed, entered into a criminal conspiracy in order to extend undue favour to undeserving candidates in the recruitment process to various posts conducted by the RRB. We think it appropriate to extract the relevant paragraphs No. 4(i), as under:-

> 4(i) That the contents of para No. 4(i) of the Original Application are not denied to the extent that all the applicants being eligible to tbe considered for appointment to the post of Apprentice Diesel Assistant/Assistant Electrical Driver pursuant to an advertisement No. 1/97. It is also not denied that a fresh advertisement bearing No. 1/98 has been issued for filling up the posts of Apprentice Diesel Assistant/Assistant Electrical Driver giving a category No. 16. Rest of the contents of this para are not admitted in the manner stated and are replied in terms that the Central Bureau of Investigation upon receipt of an information through reliable source registered a criminal case against the officials of Railway Recruitment Board and during the course of investigation in the aforesaid case, the CBI conducted a raid in the office of RRB, Ajmer, on 29.03.1998. In the investigation, CBI found a large scale bungling and major irregularities having been committed with regard to the selections/interviews conducted by Dr. Kailash Prasad, the then Chairman, RRB, Ajmer. and, therefore,

the matter was forwarded to the Railway Board. The Railway Board is seized of the matter and upon examination has already cancelled the selection with regard to 13 categories. The decision regarding cancellation of present category, i.e. category No. 18, is pending consideration with the Railway Board and it is expected that the Board shall soon take a decision. Since operation/service i.e., to run the trains is very essential, there was nothing wrong in advertising the notification for fresh vacancy. It is denied that the applicants would be deprived of from their legitimate claim of appointment. In case the Railway Board shall take a decision to give appointment to the selected candidates of category No. 18, there would be no loss to the applicants."

7. From the above counter, it is seen that it is the case of the respondents that the impugned order vide Annexure A/A1 has been issued, cancelling the result of the applicants only on the basis of the report submitted by CBI for bungling and major malpractice committed with regard to selection and interview by the Chairman and Members of the Board. They have also stated that the candidates who appeared in the earlier selection/would be called for written examination afresh. The learned counsel appearing for the respondents took us thorugh the enquiry report submitted by the CBI, MA/2 in MA No. 319/2000, and contended that the investigation of the CBI clearly revealed that an amount of Rs. 5,85,012.75 was recovered from the Chairman, RRB, on 28.3.98, while he was travelling from Ajmer to Delhi by Shatabdi Express. In fact, he was caught at Jaipur Railway Station on his way to Delhi. He further submitted that according to the said chargesheet various amounts in cash as well as fixed deposits and incriminating documents were recovered from the travelling parties, i.e. the Chairman and Members of the RRB. The CBI has clearly stated that such malpractice has been committed even regarding Apprentice Diesel Assistant/Assistant Electrical Driver. They have further stated that category No. 18 noted in the charge-sheet is relatable to Notice No. 1/97, but not Notice No. 2/97. Even assuming that there is a mistake in mentioning Notice No. 2/97 instead of 1/97, the report clearly gives the designation of the posts of Apprentice Diesel Assistant/Assistant Electrical Driver, and xxxx no doubt would be left regarding selection to these posts, malpractice was committed

by the Chairman and Members. He further stated that regarding malpractice alleged to have been committed by one Shri Kalu Ram Meena, a separate charge sheet could be filed after the investigation is completed. Therefore, the investigation is still on regarding the alleged malpractice. He submitted that having regard to these circumstances, the impugned order vide Annexure A/1A has been issued, cancelling the list of successful candidates. The Board has such power and discretion to cancel such results of successful candidates. Such cancellation cannot be termed as arbitrary or illegal. He relied upon number of judgements of Hon'ble the Supreme Court in support of his contention which we will be refering to in the course of this order.

8. S/Shri D.K. Jain and Alok Sharma also submitted their arguments, supporting the arguments advanced by the learned counsel for the applicant, Shri P.V. Calla.

9. On the basis of the pleadings and also the arguments addressed at the Bar, the short point that arises for our consideration would be whether the impugned order vide Annexure A/A1, cancelling the result of the selection is arbitrary, illegal and without jurisdiction, consequently, calling for our interference.

10. It is not in dispute that there was a CBI enquiry against the Chairman and Members of the Selection Committee, and after due investigation, a charge-sheet is filed against them. From reading the chargesheet filed in the case, we find that Shri Kailash Prasad, Chairman of the Selection Committee, is accuse No. 1. Accuse Nos.2 to 6 are non-official Members of the RRB. It is stated that Shri Kalu Ram Meena was Member-Secretary and according to the charge-sheet, the investigation in respect of him is still going on and a supplimentary charge-sheet would be filed against him later. By reading of this charge-sheet, we find that between the period May, 1997 to March, 1998,

the accused persons indulged in a criminal conspiracy for getting monetary benefits, by adopting corrupt or illegal means as public servants and misusing their official position by selecting incompetent and unqualified persons. CBI report also states that on 28.03.98, they have recovered and seized an amount of Rs. 5,85,012.75 from the Chairman of the RRB. They have stated that this amount was found in different bundles issued from the different branches of the Banks. At the same time, they have recovered an amount of Rs. 46,085/- in cash from Shri Kalu Ram Meena. They also recovered fixed deposits amounting to Rs. 1,88,458/- and Rs. 10,000/- in terms of Indira Vikas Patra. They have stated that from Shri Suraj Mal Kardam, a member of RRB, an amount of Rs. 64,395/-; and Rs. 10,150.50 from Shri Nazir Ali Alvi and an amount of Rs. 5477/- from Shri Balveer Singh Prajapati and an amount of Rs. 20,000/- from Shri Taj Mohammed and also an amount of Rs. 20,000/- from Smt. Naseen w/o. Shri Taj Mohammed, were recovered. It is also stated that they have also recovered incriminating articles from these persons, which includes photo copies of call letters issued to the candidates, on which name of recommending person was mentioned. They also recovered one chit, on which roll numbers of candidates, who appeared in the written examination of Apprentice Signal Maintainer, Apprentice T.C.M/W.T.M was mentioned, and there was a note written by one Mr. Manoj Kumar, the son of the accused NO. 1, Shri Kailash Prasad (Chairman of RRB), stating that " पास होनी है | " etc. The incriminating documents recovered from Shri Kailash Prasad, Chairman of the Railway Board, includes the final result sheet in respect of Apprentice Diesel Assistant/ Apprentice Electrical Driver (Category No.18) in which, against the roll numbers of the selected candidates, the name of the persons recommending the case was noted. In the said result sheet, recommendations made by the accused persons and Shri Kalu Ram Meena have also been noted. Some of these candidates, against whom there were recommendation notes, had obtained around 40% marks in the written examination, but in order to extend them undue benefit so that they

could be recommended for selection, all of them have been awarded 83% marks during the interview. According to the charge-sheet, there were other incriminating documents also recovered from them. Amongst the incriminating documents recovered from Shri Kalu Ram Meena, Member Secretary, the roll numbers of the candidates going to appear in the interview for the post of Apprentice Diesel Assistant/Diesel Electrical Driver (category No. 9 in Notice No. 2/97), were also recovered with the name of the persons recommending their cases, in writing of the accused, Shri Kalu Ram Meena himself. There are other incriminating documents also recovered from the accused according to the report, which we do not think it necessary to discuss in the case on hand. From the report, onething is certain that on the basis of the recovery of cash from the accused persons, and also the incriminating documents recovered from them, the chargesheet states that the accused persons indulged in a criminal conspiracy by selecting the persons, who were incompetent and unqualified. By acepting this report, the Railway Board passed the impugned order vide Annexure A/A1, cancelling the selection. Having regard to these circumstances, it cannot be said that such cancellation is arbitrary or illegal. The Board has the power and discretion to cancel such selection. One of the counsels for the applicants stated that the Railway Board should not have totally depended upon the report submitted by the CBI, and they should have collected some other materials to come to the conclusion that the selections earlier made were illegal and they were made for unlawful gains. But we do not find any substance in this argument also. The CBI is competent to investigate into the malpractices committed by the public servants like Chairman and Members of the RRB. The Railway Board having gone through the said materials, has rightly accepted the report for the purpose of cancellation. We do not find any illegality in accepting the report, after going through the same.

11. However, the learned counsel for the applicants vehemently

contended that the alleged malpractice pointed out by the CBI, relates to certain categories enumerated in Notice No. 2/97 and the report does not relate to category Nos. 15 and 18 of Notice No. 1/97. Therefore, the said report cannot be taken as basis for cancellation of selection regarding category Nos. 15 and 18. He further submitted that selection for these categories has been done on the basis of the written test held on 9.11.97, physhological test/interview held between 25.12.97 to 9.1.98 and the result of the successful candidates was declared on 8.3.98, which were all earlier to the period of the alleged malpractices. But this argument cannot be accepted for the reason that the period of malpractice committed by the Chairman and Members of the Board was between May, 1997 to March, 1998. The written test held on 9.11.97 and the psychological test/interview held between 29.12.97 to 9.1.98, are within the said period. The declaration of the result being on 8.3.98 is also within the same period. His further argument that the report of the CBI does not pertain to the post in category Nos. 15 and 18 is concerned, we find from the charge-sheet that by specifically mentioning the desigantion of posts, they have stated that such malpractice has been committed with reference to the posts of Apprentice Diesel Assistant/Assistant Electrical Driver, though they have noted it as category No. 18 at one place and category No.9 at another place under Notice No.2/97. Whatever the discrepancy may be there, the fact remains that the desigantion of the posts is indicated. At any rate, there is a clear report of the CBI that the Chairman and the Members of the Selection Committee had indulged in such criminal conspiracy for thier personal gain on a very large scale, between May, 1997 to March, 1998. The increminating documents also indicate that they relate to the same period during which the applicants were selected. Moreover, the amounts and the incriminating documents recovered from the Chairman and the Members of the Railway Recruitment Board throw a dark cloud on the entire selctions. It is not possible nor it is advisable on the part of

this Tribunal to find out which amount relates to which categories of post. It is for the department/other agency to do so. So far as the impugned selections were concerned, we are of the firm opinion that the selections are vitiated by the malpractice adopted by the Chairman and Members of the Selection Committee for personal monetory gain. It is submitted at the Bar that about 8000 candidates appeared in the impugned selection, and if so, that is the rights of such persons, who were not selected, were seriously affected by the impugned tainted selection. At any rate, the candidates, whose selections were set aside, are already invited to take fresh examination by issuing separate call letters and if the applicants are meritorious, they would definitely stand selection on the basis of their merit and performance. It is also stated in the impugned order that the Railway Board has arranged to and fro free travel by Rail to the candidates being called again for the written examination. Thus, we find that if a new selection is made, justice would be done to everyone and in this view of the matter, we do not find any merits in this application.

12. The learned counsel for the applicant by relying upon the judgement/ order of the Jodhpur Bench of C.A.T passed in T.A. No. 2463/86, decided on 10.2.87, contended that the Tribunal found fault with the cancellation made by the authorities in that case on the basis of certain procedural irregularities committed by the Selection Committee. On the face of it, we find that after finding that no such procedural irrgularities have been committed in the entire group of selections, the Tribunal set aside the order, cancelling the panel with a further rider that it was open to the authorities to take action regarding the candidates in respect of whom irregularities are found to have been committed. From the reading of the entire judgement/order, we find that the said case is distinguishable from the facts of the present case. In the instant case, a large scale of malpractice and criminal conspiracy was entered into by the Chairman and other Members of the RRB as per the CBI report, which we have already pointed out

above. The impugned order also cannot be said to be a non- speaking order, as contended by S/Shri D.K. Jain and Alok Sharma appearing for some of the applicants. The impugmed order clearly states that the action has been taken on the basis of the exhaustive report of the CBI. As we have already stated above, the Railway Board has not committed any error in passing the imugned order of cancellation by accepting the CBI report. In similar circumstances, Hon'ble the Supreme Court upheld the cancellation of selection in number of judgements cited by the respondents, which are as follows:-

(i) 1970 (1) SCC 648 - The Bihar School Examination Board vs. Subhas Chandra Sinha & Ors.

(ii) [1993] 1 SCC 154 - Union Territory of Chandigarh vs. Dilbagh Singh and Others.

(iii) [1996] 10 SCC 742- Hanuman Prasad & Ors. vs. Union of India & Another.

(iv) [1996] 5 SCC 365 - Biswa Ranjan Sahoo and Others vs. Sushanta Kumar Dinda and Others.

(v) [1998] 9 SCC 236 - Madhyamic Shiksha Mandal, M.P. vs. Abhilash Shiksha Prasar Samiti and Others.

13. In (1993) 1 SCC 154 (supra), we find that in similar circumstances, Hon'ble the Supreme Court upheld the cancellation, by holding that in case the selection list was prepared in an unfair and injudicious manner, and if such selection is cancelled by the concerned authorities, it would be for valid reasons, and in such circumstances, the persons affected would not have any right to be appointed on the basis of legitimate expectation, nor they have any right of personal hearing. They held that such a decision of the authority does not call for any interference. We think it appropriate to extract the relevant paragraph of the judgement, as under :-

"12. If we have regard to the above enunciation that a candidate

who finds a place in the select list as a candidate selected for appointment to a civil post, does not acquire an indefeasible right to be appointed in such post in the absence of any specific rule entitling him for such appointment and he could be aggrieved by his non-appointment only when the Administration does so either arbitrarily or for no bona fide reasons, it follows as a necessary concomitant that such candidate even if has a legitimate expectation of being appointed in such posts due to his name finding a place in the select list of candidates, cannot claim to have a right to be heard before such select list is cancelled for bona fide and valid reasons and not arbitrarily. In the instant case, when the Chandigarh Administration which received the complaints about the unfair and injudicious manner in which select list of candidates for appointment as Conductors in CTU was prepared by the Selection Board constituted for the purpose, found those complaints to be well founded on an enquiry got made in that regard, we are unable to find that the Chandigarh Administration had acted either arbitrarily or without bona fide and valid reasons in cancelling such dubious select list. Hence, the contention of the learned counsel for the respondents as to the sustainability of the judgement of CAT under appeal on the ground of non-affording of an opportunity of hearing to the respondents (candidates in the select list) is a misconceived one and is consequently rejected."

The above judgement applies to the facts of the case on hand. In the instant case, the respondents cancelled the selection for bona fide reason on the basis of the investigation and the report submitted by the CBI. Therefore, the contention of the applicants cannot be accepted. However, one of the counsel appearing for the respondents submitted that the report submitted by the CBI cannot be taken as sole reason for cancellation, therefore, the impugned order has been mechanically passed. In fact, in a similar case in (1996) 10 SCC 742 (supra), similar contention was also raised on behalf of the candidates, who challenged such cancellation of the selection. Hon'ble the Supreme Court held that the report submitted by the CBI in that case, constitutes a valid reason for such cancellation. We think it appropriate to extract relevant paras of the said judgement, as under :-

"3. It is seen that after the allegations were made that malpractices were committed, the matter was referred to CBI for enquiry. The CBI has submitted its preliminary report which indicated that the malpractices have been committed in writing the examination. They need not await the final report which would be to take further action against erring officers. Therefore, it is a case where the authrities have taken the decision on the basis of the report submitted by the investigating agency, containing proof in support of the allegations of malpractice committed in writing the examination. It cannot, therefore, be said that the order of cancellation does not contain any reasons.

4. It is then contended that though the canidates have no vested

right, they had got a legitimate expectation for appointment when they were selected for being appointed. They should be given prior opportunity and also know the reasons for cancellation. In support of this contention, he placed reliance on para 8 of the judgement of this Court in Asha Kaul vs. State of J&K [1993 SCC (L&S) 637]. It is unexpectionable that when duly selected selection committee makes recommendation for appointment of the selected candidates the candidates do not get any vested right or legitimate expectation until they are appointed according to the Rules; they have a chance to be appointed as they have been selected by the recruitment agency. In that case, the Government had cancelled the select list without any reasons. This Court has laid the above rule in that backdrop. The ratio therein has no application for the reason that after the perusal of the report submitted by the investigating agency, the competent authority had cancelled the selection so that the regular and proper examination could be conduced giving opportunity to everyone in a fair manner. No prior opportunity need be given in the case of mass copying. It is not the case where a named candidate committed copying. Accordingly, we do not find any illegality in the order passed by the Tribunal."

Similar has also been the view in other judgements of Hon'ble the Supreme Court cited supra, i.e. (a) 1970 (1) SCC 648, (b) [1996] 5 SCC 365, and (c) [1998] 9 SCC 236.

14. For the above reasons, we do not find any error in the impugned cancellation of selection vide Annexure A/A1. Accordingly, we pass the order as under:-

"All the applications are dismissed. But in the circumstances, without costs."

(N.P. NAWANI)
Adm. Member

(JUSTICE B.S. RAIKOTE)
Vice Chairman

cvr.

TRUE COPY ATTESTED

Section Officer (Judicial)
Central Administrative Tribunal
Jaipur Bench, Jaipur