

**CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH,**  
**JABALPUR**

**Original Application No. 189 of 2005**

**Jabalpur, this the 28<sup>th</sup> day of September, 2005**

Hon'ble Shri M.P. Singh, Vice Chairman  
Hon'ble Shri Madan Mohan, Judicial Member

G.L. Daharia, S/o. Sri Banwali  
Daharia, aged about 42 years, working  
as Loco Pilot (Mail) under the Loco-  
Foreman, WCR, Jabalpur (MP).

.... Applicant

(By Advocate – Shri S.N. Khare)

**V e r s u s**

1. Union of India, through the  
General Manager, WCR, Jabalpur.

2. Addl. Divl. Rly. Manager,  
WCR, Jabalpur.

3. Divl. Rly. Manager (Personnel),  
WCR, Jabalpur.

.... Respondents

(By Advocate – Shri H.B. Shrivastava)

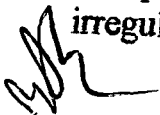
**O R D E R (Oral)**

**By M.P. Singh, Vice Chairman –**

By filing this Original Application the applicant has claimed the following main reliefs :

“(i) to dispose of the applicant's representation by implementing his own order No. JBP/P/558/M-4/Super. dated 24.12.1992, and the order of the DME (passed as D/A) No. JBP/Mech/146/Loco/JBP-14, dt. 28.6.93 and to,

(ii) promote the applicant as Loco Inspector from 27.4.1992 as his promotion was withheld for the final outcome of pending SF/5 dt. 27.4.1992 and which after full DAR inquiry, was declared by the disciplinary authority (the DME) as ab initio wrong, incorrect and irregular hence was cancelled.”



2. The brief facts of the case are that the applicant was initially appointed as a Fireman-A under the respondents Railways. Later on he was promoted as a Goods Driver. Thereafter, he appeared in a selection for the post of Asstt. Loco Inspector and in the penal which was notified on 10<sup>th</sup> June, 1991 the applicant has also been declared successful. Further the promotion order was issued vide order dated 24.12.1992 (Annexure A-5), wherein it was mentioned after the name of the applicant that since there was a charge sheet pending against the applicant he cannot be considered for promotion. Accordingly, the respondents have not appointed him. The applicant was exonerated of the charges by the respondents vide order dated 28<sup>th</sup> June, 1993. The applicant made representation and requested to the respondents that he be appointed against his selection for the post of Asstt. Loco Inspector. But the respondents have not appointed him against that post. Hence, this Original Application is filed.

3. Heard the learned counsel for the parties and carefully perused the pleadings and records.

4. The learned counsel for the applicant submitted that since he has been exonerated on 28<sup>th</sup> June, 1993 he should have been appointed against the aforesaid post. He has continuously <sup>been 2</sup> submitted representations to the respondents in this regard. At last, he filed the present OA in 2005 seeking direction to the respondents to implement the promotion order dated 24<sup>th</sup> December, 1992 (Annexure A-5).

5. On the other hand the learned counsel for the respondents submitted that although the applicant was selected and empanelled as Asstt. Loco Inspector vide order dated 10<sup>th</sup> June, 1991 (Annexure R-2) but he could not be appointed as a charge sheet was pending against him <sup>at the point of time</sup> at that moment. Since the life of the panel was only for 2 years and the applicant has been exonerated from the charges on 28<sup>th</sup> June, 1993, he could not be appointed against the said post.

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6. We have given careful consideration to the rival contentions made on behalf of the parties. The undisputed facts are that the applicant has qualified the selection for the post of Asstt. Loco Inspector and has been empanelled for the said post vide order dated 10th June, 1991 (Annexure R-2). The promotion order was also issued vide order dated 24th December, 1992 (Annexure A-5) but the applicant could not be appointed as a charge sheet was pending against him at that point of time. He has been exonerated of the charges by the respondents vide order dated 28th June, 1993 i.e. after more than 2 years. Since the panel can be enforced for a period of 2 years only and he has been exonerated after more than 2 years, he cannot be appointed against the post of Asstt. Loco Inspector against the selection made in the year 1991. The applicant has not been able to show us any document to the effect that a Government servant on exoneration can be considered for appointment even after the validity of the panel has lapsed.

7. In view of the aforesaid, this Original Application has no merit and is liable to be dismissed. Accordingly, the Original Application is dismissed. No costs.

(Madan Mohan)  
Judicial Member

(M.P. Singh)  
Vice Chairman

"SA"

पृष्ठांकन सं ओ/न्या.....जजलपुर, दि.....

परिचालिका जजलपुर, दि.....

(1) सचिव, जजलपुर, दि.....

(2) जजलपुर, दि.....

(3) जजलपुर, दि.....

(4) जजलपुर, दि.....

सूचना एवं संचार विभाग, जजलपुर

रजिस्ट्रार

S. N. Khosla  
H. D. Sharma  
DR 237

Typed  
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