

Central Administrative Tribunal, Jabalpur Bench

O.A. No. 1071 of 2005

Jabalpur this the 6th day of April, 2006

Hon'ble Mr. Justice M.A. Khan, Vice Chairman (J)

Hon'ble Dr. G.C. Srivastava, Vice Chairman (A)

Suresh Kumar Khurana
Chief Vigilance Inspector
West Central Railway,
Jabalpur
R/o 26/A,
APR Colony,
Katanga,
Jabalpur (MP).

.....Applicant

By Advocate: Shri S. Ganguli on behalf of Shri A.K. Tiwari.

Versus

1. Union of India
Through its General Manager,
West Central Railway,
Jabalpur (MP).
2. Chief Personnel Officer,
West Central Railway,
Jabalpur (MP).
3. Divisional Railway Manager,
Jabalpur Division,
West Central Railway,
Jabalpur (M.P).
4. Sr. Divisional Personnel Officer,
Jabalpur Division,
West Central Railway,
Jabalpur (MP).

...Respondents

By Advocate: Shri S.P. Sinha.

ORDER (ORAL)

By Hon'ble Mr. Justice M.A. Khan, Vice Chairman (J)

At the outset the learned counsel for the respondents has raised the question of limitation and has submitted that the present OA has not been filed within the time limit prescribed under Section 21 of the Administrative Tribunals Act, 1985. In the peculiar circumstances of the case, which we have noticed and to do substantial justice, we condone the delay, if any, in filing the application.

2. The applicant was working as Assistant Chief Ticket Inspector in the Railway administration since 1998. For filling up the post of Chief Ticket Inspector the Railway administration conducted an examination. The applicant along with others was selected

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and placed in the select panel as per circular dated 5th February, 2004 (Annexure A-1). The promotion orders to the post of Chief Ticket Inspector were issued to the applicant along with the remaining 12 persons vide order dated 26.2.2004. The applicant joined there as Chief Ticket Inspector on 26.2.2004 (Annexure A-2). By a subsequent order dated 20.8.2004 (Annexure A-3) the selection held for the post of Chief Ticket Inspector, which was finalized on 3rd February, 2004, was cancelled.

3. As a consequence, the applicant and the other officers who were promoted as Chief Ticket Inspectors, were reverted to their substantive posts vide order dated 24th/27th August, 2004 (Annexure A-4).

4. Aggrieved by this reversion S/Shri Kamaljeet Singh, Rajendra Arora, T.P.S. Bhalla and S.K. Gulati filed OA No.721/2004. It appears that another select panel from another examination was prepared for promotion to the post of Chief Commercial Inspector and the selected persons were also promoted and were subsequently reverted back to their substantive posts in pursuance to an identical order of cancellation of the select panel. Some of those persons also filed another OA, which is titled as K.K. Shrivastava & Others Vs. Union of India and Others in OA No.725/2004, challenging their reversion from the promoted post. Both these OAs were heard and were decided by the Tribunal by a common order dated 17th May, 2005. The Tribunal gave the following directions:-

“11. In the conspectus of the facts and circumstances discussed above, the present Original Applications are allowed. The impugned orders of reversion of the applicants are quashed and set aside. The respondents are directed to take up the matter with the Railway Board to obtain the approval of the President to extend the cut off date and give the applicants same treatment as has been done in the case of other railway employees, as discussed above. No costs”.

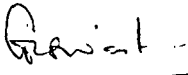
5. In compliance with this direction four applicants of the OA No. 721/2004 were again promoted to the post of Chief Ticket Inspector vide Annexure A-8 dated 11.11.2005. It appears that the remaining persons, who were on the select panel as per the letter dated 5th February, 2004 (Annexure A-1) and were promoted as Chief Ticket Inspectors have not been given the benefit of that order and promoted again.

6. From the counter reply which has been filed on behalf of the respondents it appears that the respondents have treated the order of the Tribunal dated 17th May, 2005

in OA No. 721/2004 as an order in personem so the necessary extension of the cut off date was obtained from Railway Board only in respect of the applicants therein. The respondents have in an arbitrary manner discriminated the applicant and others similarly situated and similarly circumstanced persons which clearly violated the right of equality as enshrined in Article 14 of the Constitution of India. A perusal of the order dated 17th May, 2005 shows that the Tribunal had not discussed the merit of any individual case of the applicants in the OA but had discussed the general principles as to whether the cut off date should be extended in the case of this select panel also or not. Therefore, the action of the respondents in extending the cut off date of the select panel only in respect of applicants in OA No. 721 of 2004 excluding other similarly *situated* and similarly circumstanced persons from the benefit of that order is absolutely illegal, arbitrary and discriminatory, which cannot be allowed to stand. As a model employer it was the duty of the Railway Administration to have treated all the persons who were in the same select panel with equality and not to create a class within a class without a rationale and promote only few of them and on the pretext that they have obtained a favourable order from the Tribunal thereby forcing others also to come to the Tribunal for the same relief.

7. The learned counsel for the respondents has submitted that the applicants have not been reverted but at the same time it is also not stated that the order dated 20th August, 2004 whereby the panel was cancelled and the order dated 24.8.2004 by which the applicant and other similarly situated persons who were on the same panel and were promoted were reverted has been withdrawn. It means that the order still stands.

8. For the reasons stated above, we allow the OA and quash and set aside the order dated 20th August, 2004 (Annexure A-3) and order dated 24/27.8.2004 (Annexure A-4). We further direct the respondents that the applicant and other similarly situated persons named in the panel dated 5.2.2004, Annexure A-1 shall also be granted the benefit of the order of this Tribunal dated 17.5.2005 passed in OA No. 721/2004. The parties shall bear their own costs.


(Dr. G.C. Srivastava)
Vice Chairman (A)


(M.A. Khan)
Vice Chairman (J)

Rakesh

पृष्ठांकन की जाये/न्या जयपुर, दि.....

का निमित्त/के लिये के लिये

(1) राजेश्वरी नगर, जयपुर, जयपुर, जयपुर

(2) आर्य समाज, जयपुर, जयपुर, जयपुर

(3) राजेश्वरी नगर, जयपुर, जयपुर, जयपुर

(4) जयपुर, जयपुर, जयपुर, जयपुर

सूचना एवं आवश्यकता पड़ने पर

सूचना एवं आवश्यकता पड़ने पर

15/06/06

S. Ganguly Bhowmik
S. Ganguly Bhowmik

Issued
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