

9.12.07

Mr. Rishi Sharma, proxy counsel for
Mr. R.N. Mathur, counsel for applicant
Mr. Anupam Agrawal, counsel for respts.

Heard the learned counsel
for the parties.

The OA stands disposed of
by a separate order.

(A.P. Phule)
M(A)

A.K. J.
(A.K. Jog)
M(J)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH, JAIPUR.

Jaipur, the 04th day of December, 2007

ORIGINAL APPLICATION NO.105/2006

CORAM :

HON'BLE MR.JUSTICE A.K.YOG, JUDICIAL MEMBER
HON'BLE MR.J.P.SHUKLA, ADMINISTRATIVE MEMBER

1. Ved Sheel Sharma, T.C., W.C.R., Kota.
2. Ranjeet Singh, T.C., W.C.R., Kota.
3. Subran Singh, Fitter, W.C.R., Kota.

... Applicants

(By Advocate : Shri Rishi Sharma, proxy counsel for
Shri R.N.Mathur)

Versus

1. Union of India through
General Manager,
West Central Railway,
Jabalpur (MP).
2. Chief Workshop Manager,
Wagon Repair WorkShop,
West Central Railway,
Kota.
3. Satya Prakash Pandey,
Jr.Engineer,
West Central Railway,
Kota.
4. Narendra Kumar Sharma,
Jr.Engineer,
West Central Railway,
Kota.
5. Ravinder Kumar Sharma,
Jr.Engineer,
West Central Railway,
Kota.
6. Inderjeet Singh,
Jr.Engineer,
West Central Railway,
Kota.

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7. Heera Lal Prajapati,
Jr.Engineer,
West Central Railway,
Kota.
8. Geeta Peshwani
W/o Shri Suresh Kumar,
Jr.Engineer,
West Central Railway,
Kota.
9. Ghanshyam Kushwaha,
Jr.Engineer,
West Central Railway,
Kota.
10. Tarun Kumar Sinsawal,
Jr.Engineer,
West Central Railway,
Kota.
11. Narendra Singh,
Jr.Engineer,
West Central Railway,
Kota.
12. Hariom Sharma,
Jr.Engineer,
West Central Railway,
Kota.

... Respondents

(By Advocate : Shri Anupam Agarwal)

ORDER (ORAL)

PER HON'BLE MR.JUSTICE A.K.YOG

The present OA is being decided finally at admission stage since respondents have already appeared and filed their reply.

2. Applicants have approached this Tribunal against the order dated 3.1.2006 (Ann.A/1 to the OA), on the ground that they have not been found eligible for being included in the empanelment prepared by the department for the purpose of promotion.

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3. Against the aforesaid order, the applicants filed representation dated 6.1.2006 (Ann.A/2 to the OA). The said representation has already been rejected by the respondents vide order dated 25.1.2006 (Ann.A/3 to the OA). Aforesaid facts have been mentioned in para-1 of the OA. In the relief clause, the applicants have claimed for setting aside/quashing of the empanelment notification dated 3.1.2006 (Ann.A/1 to the OA). Apparently, the applicants have not incorporated the relief for setting aside the order dated 25.1.2006, rejecting their representation dated 6.1.2006 (Ann.A/2 to the OA).

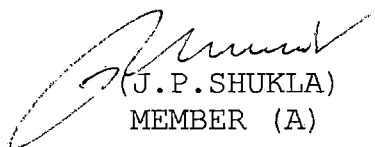
4. Since respondents have already appeared and do not dispute passing of the order dated 25.1.2006 (Ann.A/3 to the OA), in our opinion, it will not be in the interest of justice to dismiss the OA on this ground particularly when we find that the said order dated 25.1.2006/Ann.A/3 is not a speaking order dealing with the contentions raised by the applicants in their representation. Inclusion of a relief clause can be allowed even at this stage as necessary facts have already been pleaded in the OA.

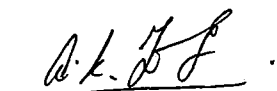
5. The applicants have also incorporated the relief in general terms and, in the facts and circumstances, we pass our order to set aside the order dated 25.1.2006 (Ann.A/3 to the OA).

6. As noted earlier, the impugned order does not show application of mind as, we find not even an

apology for reasons to ascertain as proof as to why the contentions raised by the applicants in their representations have not found favour with the respondent authorities. In that view of the matter, the impugned order dated 25.1.2006 has been passed in violation of the principles of natural justice and cannot be sustained in law. Consequently, the said order dated 25.1.2006 (Ann.A/3 to the OA) is hereby set aside and this case is remanded back to the concerned competent authority to decide the representation of the applicants, copy of which has been filed as Ann.A/2 to the OA, ^{by} ~~to be decided~~ ^{by} within two months of receipt of a certified copy of this order provided this certified copy of this order is served upon the concerned competent authority within four weeks from today. It is made clear that, at this stage, we have not entered into the merits/demerits of the impugned order dated 3.1.2006 (Ann.A/1 to the OA) and concerned competent authority is required to decide the representation exercising its unfettered jurisdiction on the basis of record as well as relevant rules/circulars before it.

7. The OA is allowed partly to the extent indicated above. No order as to costs.


(J.P. SHUKLA)
MEMBER (A)


(A.K. YOG)
MEMBER (J)

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