

Central Administrative Tribunal  
Jaipur Bench, JAIPUR

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ORDERS OF THE BENCH

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9th September, 2009


OA.437/2007

Present: Shri Nand Kishore, counsel for applicant  
Shri V.S.Gurjar, counsel for respondents no. 1 to 4  
Shri S.Shrivastava counsel for respondent no. 5

Heard counsel for the parties.

For the reasons to be dictated separately the OA is disposed  
of.

  
(B.L. Khatri)  
Member (Administrative)

  
(M.L. Chauhan)  
Member (Judicial)

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Central Administrative Tribunal  
Jaipur Bench, JAIPUR

OA 437/2007

This the 9th day of September, 2009

**Hon'ble Shri M.L. Chauhan, Member (Judicial)**

**Hon'ble Shri B.L. Khatri, Member (Administrative)**

1. Pradeep Kumar Yadav S/o Late Shri T.N. Yadav,  
aged about 40 years, working as Loco Pilot Goods  
Grade-1 H.Q. Phulera, resident of Plot No. 445 Ayodhya Path,  
Sector-1, Chitrakut, Jaipur (Raj.)
2. Gauri Shanker Sharma S/o Shri Girja Parshad Sharma,  
aged about 39 years, Loco Pilot Goods Grade-1, Resident of  
Plot No. 67B Shri Ram Nagar, B Niteshwar Mahadev Road,  
Jhotwara, Jaipur (Raj.)

...Applicant

(By Advocate: Shri Nandkishore)

**- VERSUS -**

1. Union of India, through, General Manager,  
North Western Railway  
Hasanpura Road, Jaipur
2. Ram Charan Verma  
Power Controller C/o  
Chief Mechanical Engineer  
North Western Railway,  
Hasanpura Road, Jaipur
3. Narshi Lal Meena  
Chief Mechanical Engineer  
North Western Railway,  
Hasanpura Road, Jaipur
4. Pramod Kumar Paul,  
Chief Mechanical Engineer  
North Western Railway,  
Hasanpura Road, Jaipur
5. Mukesh Choudhary  
Chief Mechanical Engineer  
North Western Railway,  
Hasanpura Road, Jaipur

.....Respondents

(By Advocate: Shri V.S. Gurjar for resp.no.1 to 4  
& Shri S. Shrivastava for resp.no. 5 )

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**ORDER (ORAL)**

The applicant has filed this OA thereby praying for the following reliefs:-

- (i) That the Annexure A/1 letter dated 3.10.2007 maybe declared bad in law, quashed and set aside.
- (ii) That the respondents No.1 may be directed to notify the selection of Loco Inspectors Scale Rs. 6500-10500 making eligible to the applicants and other staff working on the divisions of N.W.Railway.
- (iii) The respondents No.2,3,4 & 5 may be repatriated in terms of Railway Boards directions A/2.
- (iv) Any other directions and orders, which are deem proper in the facts and circumstances of the case may be kindly be allowed to the applicants.

2. Grievance of the applicant is that as per notification dated 3.10.2007 (annexure A/1), the respondents No. 2 to 5 who are working as PCR had been made eligible for selection to the post of Loco Inspector in the grade 6500-10500 whereas as per the criteria laid down by the railway board, the said post has to be filled in from the Goods Driver working in the Divisions in the pay scale of Rs.5000-8000 with the three years of service. Thus, according to the learned counsel for the applicant, it was not permissible for the official respondents to confine selection to the category of PCR. Applicant has also further prayed that private respondents may be repatriated to their parent department as per Railway Board's circular dated 10.2.1998.

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3. Official respondent as well as private respondents have filed separate reply. In the reply the main stand taken by the respondents is that private respondent has been made eligible for selection pursuant to the decision taken at Headquarter level, vide order dated 2.8.2007 Annexure R-12. The validity of this order has not been challenged by the applicants in this OA, although in the rejoinder the applicants have specifically pleaded that the said decision was not taken at the level <sup>of</sup> General Manager (Railway) as such CME/CMPE has no authority to merge the above cadre ignoring the Railway Board's circular dated 10.2.1998 (Annexure A-2). Learned counsel for respondents while drawing our attention to prayer clause (ii) and (iii) has further argued that both these reliefs are separate and distinct, joint petition is not maintainable in view of C.A.T. (Procedure) Rules.


4. We have heard learned counsel for the parties. Learned counsel for the applicant fairly submits that he is not pressing prayer clause (iii) and is confining his argument on other reliefs. In view of this, we are now required to examine the validity of order Annexure-A-1 whereby private respondents who are PCR had been made eligible for selection to the post of Loco Inspector. Admittedly, the applicant has neither challenged the legality or validity of the order dated 2.8.2007 annexure R-12 in the OA, nor prayed for quashing of this order. We are of the view that so long as the legality or validity of this order is not challenged it will not be permissible for us to quash


the impugned order dated 3.10.2007 annexed as Annexure A-1, which order has been issued pursuant to decision annexure R-12.

5. In view of what has been stated above, we are of the view that end justice will be met if the applicant is granted opportunity to challenge the order dated 2.8.2007 annexed as Annexure R-12 on all permissible grounds so that an opportunity can be given to respondents to file reply.

6. Accordingly, the present Original Application is disposed of at the admission stage in the aforesaid terms with liberty reserved to the applicant to file substantive OA on all permissible grounds including the grounds he has taken in this OA.

7. With these observations, the present OA is disposed of and interim stay granted by this Tribunal <sup>on</sup> 11.12.2007 which was extended from time to time shall remain operative for further period of 15 days from today.

  
(B.L. Khatri)  
Member (Administrative)

  
(M.L. Chauhan)  
Member (Judicial)

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