

**CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR**

ORDER SHEET

ORDERS OF THE TRIBUNAL

26.09.2011

OA No. 378/2010 with MA 291/2010, 69/2011 & 182/2011

Mr. Subhash Bisawa, Counsel for applicant.

Mr. V.S. Gurjar, Counsel for respondents.

Put up on 19.10.2011.

Anil Kumar

(Anil Kumar)
Member (A)

K. S. Rathore

(Justice K.S.Rathore)
Member (J)

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19/10/2011 [OA No. 378/2010 with MA No. 291/2010

MA No. 69/2011 and MA No. 182/2011

Mr. S. B. Dadhich, Counsel for applicant.
Mr. V. S. Gurjar, Counsel for respondents.

Hearld.

The OA and MAs. are disposed of
by a separate order on the separate
Sheets for the reasons recorded therein.

Anil Kumar

[Anil Kumar]
Member (A)

K. S. Rathore

[Justice K. S. Rathore]
Member (J)

7/3/11

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH

Jaipur, this the 19th day of October, 2011

OA No. 378/2010

CORAM:

**HON'BLE MR. JUSTICE K.S.RATHORE, MEMBER (JUDL.)
HON'BLE MR. ANIL KUMAR, MEMBER (ADMV.)**

Smt. Hemlata Mathur
w/o Shri Ravi Prakash Mathur,
Junior Clerk, E.D. Section,
DRM Office, Ajmer and
r/o House No.110/10, Civil Lines,
Ajmer.

.. Applicant

(By Advocate : Shri S.B.Dadhich)

Versus

1. Union of India
through General Manager,
North Western Railway,
Jagatpura, Jaipur
2. The Divisional Rail Manager,
North Western Railway,
Ajmer Division, Ajmer.

... Respondents

(By Advocate : Shri V.S.Gurjar)

ORDER (ORAL)

Brief facts of the case are that notification dated 24.6.2008 for promotion to the post of Personal Inspector scale



Rs. 5000-8000/9300-34800 + Grade Pay Rs. 4200 was issued by the respondent No.2 inviting applications from the employees of Establishment Branch and other departments. The applicant applied for both categories and list of successful candidates was declared vide order dated 22.5.2009. The name of the applicant appears in both the categories.

2. The competent authority approved both the panels on 25.5.2009. The applicant secured highest marks but without assigning any reasonable ground the panels were referred to the Headquarter office seeking clarification. The respondent No.1 clarified the position vide letter dated 21.8.2998, 23.9.2009, 15.10.2009 and 20.1.2010 but the direction issued by respondent No.1 has not been implemented by respondent No.2 and ultimately vide letter dated 18.3.2010 (Ann.A/1) cancelled the selection process held vide notification dated 24.6.2008. Hence, the applicant preferred this OA challenging the aforesaid order on the ground that in similar case of promotion of Senior Clerks scale Rs. 5200-20200+Grade Pay Rs. 2800 to OS-II scale Rs. 9300-34800 with Grade Pay Rs. 4200 the same has been implemented by the respondents as evident from notification dated 11.2.2010 in which case notification was issued on 26.11.2008, panel was issued on 20.11.2009 and employees were sent on training in Feb. 2010 whereas in the present case notification was issued on 24.6.2008, selection



was made on 25.5.2009 but the panel was not issued. It is alleged that with vested interest and with mala-fide intention just to accommodate some other employees, the matter was referred to Headquarter office on 16.7.2009 and even after receipt of Headquarter office clarification vide letter dated 21.8.2009, 23.9.2009 and 15.10.2009, panel was not declared and instead of issuing panel, notification dated 24.6.2008 was cancelled.

3. We have carefully examined the material available on record and the clarifications sought and given by the department itself from time to time. It reveals that consistent view was taken by the Headquarter office to issue the panel as evident by Ann.A/8 dated 21.8.2009 wherein it is provided that - in connection to above, it is directed that since the instant case is for General Selection posts, so instructions of RBE No.113/2009 will be followed. As mentioned in para 3.2 of RBE No.113/2009, it will be applicable with immediate effect, so RBE No. 133/2009 will be applicable for panel of Personal Inspector in scale Rs. 5000-8000 (Lowest in PI Cadre). The panel may be issued which will be provisional subject to VI th Pay Commission Recommendation received subsequently also.

4. Further, vide letter dated 23.9.2009 (Ann.A/9) after seeking clarification it was decided that clarification may be



referred for finalization of panel of PI-III and panel may be issued.

5. Further, specific direction were issued vide letter dated 15.10.2009 (Ann.A/10) with the approval of the competent authority i.e. the CPO/Admn. that the ongoing selection of PI Gr.III scale Rs. 5000-8000/9300-34800 + GP 4200 can be finalized and result may be declared as there is no bar in declaring the result. But time and again, clarifications were sought for and the same were replied as evident vide letter dated 20.1.2010 (Ann.A/11) wherein it is stated that mode of selection for PI has not changed, however DRM (E) may take necessary action as per RBE 8/2010 which clarified all aspects as has been asked by the DRM (E). Accordingly necessary action may be taken.

6. Vide Ann.A/12 dated 11.2.2010 instructions regarding implementation of recommendations of 6th CPC, merger of grades, promotion with the same grade pay, classification and mode of filling up of non-gazetted posts, status of panels finalized/selection initiated earlier etc. has been issued providing that in case where even after merger, mode of filling up in merged grades, as indicated in the statement enclosed with letter 3.9.2009 has not been change, all such panels, suitability lists if any as finalized/partly operated before restrictions was imposed on making promotion to such merged



grades, which was effective from 4.9.2008 may be further operated.

7. In the reply submitted on behalf of the respondents, the respondents have referred to RBE 70/2009 wherein it is provided that where merger of scales is not involved and a grade in the existing scale has been replaced by grade pay, promotions may continue to be made in accordance with the existing classification but it appears that vide letter dated 16.7.2009 (Ann.R/2) on account of objections raised by the Union (UPRMS) again clarification was sought and it appears that under the pressure of the Union ultimately, the selection process initiated vide notification dated 24.6.2008 has been cancelled vide order dated 18.3.2010 meaning thereby that the entire selection has been cancelled that too without assigning any reason.

8. As per the settled proposition of law laid down by the Apex Court while cancelling examination for recruitment promotion, the competent authority must take decision of cancellation with due application of mind instead of taking it mechanically or impulsively and bare perusal of the impugned order dated 18.3.2010, it appears that selection process has been cancelled by the competent authority obviously mechanically without assigning any reason.



9. Therefore, in our considered view, we deem it proper to set-aside the order impugned dated 18.3.2010 with direction to the respondents to pass fresh order after proper application of mind without prejudice or any pressure from the Union and it is further directed that fresh order should be passed strictly in accordance with the provisions of law and the RBEs issued from time to time.

10. The OA stands disposed of in above terms with no order as to costs.

11. In view of disposal of the OA, no order is required to be passed in MA No.291/2010, 69/2011 and 182/2011, which shall stand disposed of accordingly.

Anil Kumar
(ANIL KUMAR)

Admv. Member

K. S. Rathore
(JUSTICE K.S.RATHORE)

Judl. Member

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