

(OPEN COURT)

**CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH
ALLAHABAD**

This the **23rd** day of **MAY 2018**.

ORIGINAL APPLICATION NO. 538 OF 2018

HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J).
HON'BLE MR. R. RAMANUJAM, MEMBER (A).

1. Sunil Kumar Tripathi aged about 39 years, S/o Shri Gopal Ji Tripathi, R/o 749-E, New Lotus Public School Lane, Gorakhpur-273014, Presently working as Khalasi, in the Office of Divisional Signal & Telecommunication Engineer (Tele)N.E. Railway, Gorakhpur.

.....Applicant

VER S U S

1. Union of India through General Manager, N.E. Railway, Gorakhpur.
2. Chief Personnel Officer, N.E. Railway, Gorakhpur.
3. Assistant Personnel Officer (Headquarter), N.E. Railway, Gorakhpur.
4. Divisional Signal & Telecommunication Engineer (Tele) N.E. Railway, Gorakhpur.

.....Respondents

Advocate for the Applicant : Shri S K Om

Advocate for the Respondents : Ms Shruti Malviya

O R D E R

(Delivered By Hon'ble Mr. Sanjeev Kaushik, Member-J)

The present Original Application has been filed where the applicant seeks the following reliefs:-

"(i) To issue a writ order or direction in the nature of certiorari to quash the notification/advertisement dt. 6.9.2017 (Annexure-1) to the extent it prescribes eligibility only for Group 'C' staff and thereby modify the same and Group 'D' Railway employees may also be made eligible to appear in the selection for the post of Chief Law Assistant pursuant to the said advertisement.

(b) To issue a writ order or direction in the nature of mandamus commanding the respondents to consider the application dated 23.03.2018 made by the applicant and include his name in the list of eligible candidate for the written examination for the post of Chief Law Assistant, pursuant to advertisement dt. 6.9.2017.

(c) To grant any other relief for which the applicant is entitled for in the circumstances of the case, including consequential reliefs.

(d) To award the cost of the present O.A. in favour of the applicant."

2. Shri S K Om, counsel appearing on behalf of the applicant submitted that the applicant is a Group -D employee working in NCR, Allahabad. The respondents issued advertisement on 06.09.2017 (Annexure-1) showing the intention to fill up seven vacancies of Chief Law Assistant in the pay scale of Rs. 9300-34800 + Grade Pay of Rs. 4600/- against 60% quota out of which four vacancies were reserved for General, 1 vacancy for SC and 2 vacancies for ST.

3. Learned counsel for the applicant submitted that the applicant did not submit his application for the said post because the respondents were not allowing Group-D employees to participate in the selection. Subsequently, the applicant came to know that certain people who were in Group-D were permitted to participate in selection and their names have been shown in the list of eligible candidates. Thereafter, the applicant made a representation requesting therein to allow the applicant also to participate in the selection. He submitted that the respondents did not take any action on the representation. Hence, the present Original Application.

4. Learned counsel for the applicant submitted that as other persons who were Group-D employees have been permitted to participate in the selection, therefore, the applicant should also be

allowed to participate in the selection subject to the final outcome of the OA.

5. Ms. Shruti Malviya, counsel who accepted notice on behalf of the respondents objected to the prayer made by the applicant for participating in the selection on the ground that the applicant has not applied for the said post within the prescribed time limit and the other persons who were allowed to participate in the selection applied for the said post within time. She did not dispute that the applicant is otherwise eligible for applying for the said post in terms of the advertisement.

6. We have given our thoughtful consideration to the entire matter and have perused the advertisement and are of the view that the applicant has not submitted his application within time but since he has already made a representation before the cut of date, he be allowed to participate in the selection being a Group-D employee.

7. Therefore, we are of the view that let the respondents decide his representation and if the applicant is eligible otherwise then he will be allowed to participate in the selection. Accordingly, we direct the respondents to decide the applicant's representation within a period of 15 days from the date of receipt of certified copy of this order. In the meantime, he be allowed to participate in the selection provisionally. The suitability of the applicant will be decided after the respondents decide the pending representation.

8. With the above direction the OA is disposed of.

9. The disposal of OA may not be construed as an expression on the merit of the case.

(R. RAMANUJAM)
MEMBER-A

(SANJEEV KAUSHIK)
MEMBER-J

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