

**Reserved**  
(On 09.07.2018)

**CENTRAL ADMINISTRATIVE TRIBUNAL**  
**ALLAHABAD BENCH**  
**ALLAHABAD**

Dated: This the 12<sup>th</sup> day of July 2018

**Original Application No 330/01529 of 2010**

**Hon'ble Mr. Gokul Chandra Pati, Member (A)**  
**Hon'ble Mr. Rakesh Sagar Jain, Member (J)**

1. Abdul Rehman, S/o Late Chunnu Khan, R/o Village Lal Tikar, P.O. Roundha, District Moradabad.
2. Suresh, S/o Sri Laloo, R/o Pratap Khera, R/o Roori Sazdiquepur, District Unnao.
3. Gyanendra Kumar, S/o Late Kripa Shanker, R/o Village Pure Hari Bhajan, P.O. Jagatpur, Raibareily.

.....Applicants

By Adv: Sri A.K. Srivastava & Sri M.K. Srivastava

**V E R S U S**

1. Union of India through General Manager, Northern Railway, Baroda House, New Delhi.
2. Divisional Railway Manager, Northern Railway, Moradabad Division, Moradabad.
3. Senior Divisional Personnel Officer, Northern Railway, Moradabad Division, Moradabad.
4. Sanjay Kumar, Helper Cleaner, Senior Section Engineer, Carriage and Wagon, Moradabad.
5. Imran Khan, Helper Cleaner, Senior Section Engineer Carriage & Wagon, BE (Bareilly) Moradabad Divisional.
6. Mukesh Kumar Singh, Helper Khalasi, Senior Section Engineer Cariage & Wagon, BLM (Bala Mau), Moradabad Division.
7. Shahid Hussain, Helper Khalasi, Senior Section Engineer Carriage & Wagon, Moradabad.
8. Vinit Goswami, Helper Khalasi, Senior Section Engineer, Carriage & Wagon, Moradabad.

... Respondents

By Adv: Sri P.N. Rai.

**O R D E R**

**By Hon'ble Mr. Gokul Chandra Pati, Member - A**

The present OA is preferred by the applicant under Section 19 of the Administrative Tribunals Act, 1985 with the following reliefs:-

**“8.1 By means of certiorari quash the impugned panel dated 24.09.2010, by which new faces were sent for training by deleting the names of applicants (contained as Annexure A-1)**

**8.2 Issue a writ, order or direction in nature of mandamus commanding the respondents to allow the applicants for completion 8 days balance training and promoted to post of Technician-III for which they are selected.**

**8.3 issue any other suitable writ, order or direction as this Hon'ble Tribunal may deem fit and proper under the facts and circumstances of the case.**

**8.4 award the costs of the application in favour of the applicants.”**

2. The applicants' case in brief, as stated in the OA is while working as Helper Khalasi under Senior Section Engineer, Northern Railway, Moradabad Division, Moradabad and Dehradun, the applicants appeared in the written examination for the post of Technician-III (Carriage & Wagon) on 12.09.2009. They qualified in the said written examination and in the result dated 17.02.2010 (Annexure A-2), their names appeared at Sl. No. 20, 13 and 19 respectively. On 09.06.2010 (Annexure A-3), the selection list was issued and the applicants were placed at Sl. No. 3, 11 and 1 respectively. The applicants were sent for training starting from 05.07.2010 and were issued a letter on 27.09.2010 (Annexure A-5). However, the applicants' name were deleted from the modified panel dated 24.09.2010 eight days before completion of training and five more names were included in new panel. It is alleged by the applicants that action of the respondents is malafide, arbitrary and bad in law. The applicants have made representation on 29.09.2010 (Annexure A-6), but no action has been taken.

2. The respondents have filed their counter reply, in which it is stated that the selection for the post of Technician-III (Carriage & Wagon) in the Grade of Rs. 5200-20200+GP Rs. 1900/- was against 25% Talent quota was initiated and a panel was formed on the basis of the seniority of the candidates declared successful containing 21 candidates (21-unreserved, 00-SC and 00-ST). Eight posts (04-SC + 04-ST) were kept vacant because no SC/ST candidate was available in written consideration zone. The panel was drawn on the basis of overall merit of the candidates in terms of PS No. 13602/09. Earlier panel dated 09.06.2010 was formed on the basis of seniority of the selected candidates including the applicants. It came to the notice subsequently that the panel should have been formed / prepared on the basis of merit on total marks obtained by the candidates in terms of instructions contained in Railway Board's letter No. E(NG)I-2008/PM7/4SLP dated 19.06.2009 under Printed Serial No. 13602/09. Accordingly the panel has been modified and the revised panel

duly approved by the Competent Authority was issued vide letter No. 727/E/EP/ERS-II/Talent Quota/09 dated 24.09.2010 in which 05 candidates who secured higher merit than the applicants were placed on the panel by deleting the names of applicant. Accordingly they have been recalled from the training.

3. The respondents filed Supplementary Counter Affidavit on 08.05.2013 enclosing order dated 27.01.2011 and order dated 24.09.2010 in which new panel excluding the applicant (Annexure SCA-1). The respondents have also filed another Supplementary Affidavit on 21.05.2014 enclosing copy of the Railway Board circular dated 19.06.2009, which was followed to prepare modified selection panel dated 24.09.2010 excluding names of the applicant.

4. No rejoinder affidavit has been filed by the applicants in reply to the counter reply. Learned counsels were heard on 09.07.2018 and they reiterated the averments in respective pleadings. Applicants' counsel stressed on the fact that the applicants were sent back from training when 08 days were left for completion of the training and such action was termed as malafide and bad in law. Learned counsel for the respondents, on the other hand, submitted that the panel was modified in accordance with the Railway Board circular dated 19.06.2009 and earlier panel including name of the applicants was prepared on the basis of wrong criteria as explained in Para 13 of the Counter Reply.

5. On being asked by the Bench about present status of the applicants' promotion, applicants' counsel mentioned that all the applicants have been promoted to Technician-III subsequent to filing of the OA and by way of the present OA, the applicants want to have their promotion from the year 2010 when they were first selected vide order dated 09.06.2010 (Annexure A-3).

6. We have considered the submissions of the parties and are not able to accept the contentions of the applicants for the following reasons:-

i. The order dated 09.06.2010 (Annexure A-3) in which the applicants were selected for the post, it is seen that it is the selection for training and after training, the applicants would have been promoted. But as stated in the counter reply, it was detected by the respondents that they have adopted a wrong criteria for selecting the panel dated 09.06.2010. The panel should have been prepared as per Railway Board's

Circular dated 19.06.2009 (annexed to Suppl. Counter filed on 21.05.2014) which was in force when the select list dated 09.06.2010 was prepared. Since the select list was not in accordance with the Railway Board's Circular dated 19.06.2009, it had to be modified.

- ii. The applicants have not challenged the Railway Board's Circular dated 19.06.2009, nor they have contested the averments made in para 13 of the counter Reply.
- iii. The ground of the applicants in the OA that the respondents have not mentioned any reason while modifying the applicants' name is not acceptable since the order dated 24.09.2010 (Annexure A-1) clearly refers to the Railway Board Circular No. PS 13602/09 dated 19.06.2009, by which the modified criteria was put in place and the panel was accordingly modified. Hence, adequate reasons for modifying the panel has been mentioned. However, the applicants failed to challenge the Railway Board Circular dated 19.06.2009 in the OA. Hence, the allegation in the OA that action of the respondents is malafide and bad in law cannot be accepted.
- iv. As informed by the applicants' counsel at the time of hearing, the applicants have been promoted subsequently and they want to get their date of promotion with effect from 2010. But no such relief has been prayed for in the OA. The reliefs claimed in the OA have become infructuous after subsequent promotion of the applicants and promotion of the private respondents after completion of their training.

7. In view of the above, we do not find any merit in the OA, which deserves to be dismissed. Accordingly, the OA is dismissed. No costs.

**(Rakesh Sagar Jain)**  
Member (J)

/pc/

**(Gokul Chandra Pati)**  
Member (A)