

**Central Administrative Tribunal, Allahabad
Bench, Allahabad**

**ORIGINAL APPLICATION NO.330/00148/2017
Reserved on 8.5.2018**

Pronounced on 15.5.2018

**Hon'ble Dr. Murtaza Ali, Member (J)
Hon'ble Mr. Gokul Chandra Pati, Member (A)**

1. Anjani Kumar Son of Sri A.K. Srivastava, Resident of 91/B, Urapion Railway Colony, Mughalsarai, Chandauli-232101.
2. Manish Kumar Shukla, Son of Late Umakant Shukla, Resident of Village – Mundipur, Post – Bhriya Chunar, District – Mirzapur.
3. Shyam Lal Prasad, Son of Late Dhasmi Ram, Resident of Village- Barthi, Post – Sakaldeha, District – Chandauli.
4. Kamlesh Kumar Son of Late Amarnath Rai, Resident of Quarter No.157-J, Gaya Colony, Mughalsarai, District – Chandauli.
5. Divesh Kumar, Son of Shri Saddan Ram, Resident of Quarter No.11/EF, New Central Colony, Mughal Sarai, Chandauli.
6. Munna Singh, Son of Late Jayram Singh, Resident of Quarter No.1374/A, Manas Nagar, Mughalsarai, District – Chandauli.
7. Mir Arman Husain, Son of Late Mir Akbar Husain, Resident of Ward No.2, Shastri Nagar, Railway Colony, Saiyer Raja.
8. Mond. Saukat Ali Khan, Son of Mohd. Faiyaz Khan, Resident of Village – Raksha, Baya Dildar Nagar, District – Ghazipur.
9. Vivek Singh Son Sri Ravendra Pratap Singh, Resident of Village- Barrahi, Police Station – Garh, District-Rewa (M.P.).
10. Arun Kumar Singh, Son of Sri Raj Kumar Singh, Resident of House No.88, Meera Nagar, Kanchanpur, Kandwa Chitaipur, Varanasi.

11. Mohd. Anwar Khan, Son of Sri Zainuddin Khan, Resident of House No.7/F, Diesel Colony, Mughal Sarai, Chandauli.
12. Rajesh Singh, Son of Sri Vilash Singh, Resident of Village - Chaudharipur, Post - Adalpura, District- Mirzapur.
13. Viswajeet Singh, Son of Krishna Shankar Singh, Resident of Village - Double, Post - Baburi, District - Mirzapur.
14. Ajeet Kumar Son of Sri Jayram Singh, Resident of Village - Brahamsthan, Post - Sikandarpur, district- Jahanabad (Bihar).

.....Applicants.

By Advocate -Shri S.M. Ali
Shri A.A. Khan

V E R S U S

1. Union of India through General Manager, East Central Railway, Hazipur.
2. Divisional Railway Manager, East Central Railway, Mughalsarai.
3. Senior Divisional Personnel Officer, East Central Railway, Mughalsarai.

Respondents

By Advocate : Shri U.N. Sharma

O R D E R

By Hon'ble Dr. Murtaza Ali, Member-J

The applicant has filed this OA under Section 19 of the Administrative Tribunals Act, 1985 seeking following relief(s) :

- (i) To quash the impugned order dated 01.02.2017 passed by respondent No.3 (Annexure No.A-1).*
- (ii) To promote the applicants on the post of Ticket Examiner grade pay Rs.1900/- as*

per result of written examination with all consequential benefit.

- (iii) To pass any other and such order as deem fit in the facts and circumstances of the case.*
- (iv) Award the cost of case in favour of applicants.*

2. The brief facts of the case are that the applicants are working on Group 'D' posts in grade pay of Rs. 1800/- in Commercial/Operating Department. The Divisional Railway Manager, Mughalsarai issued a notification dated 22.4.2015 (AnnexureA-2) inviting options for promotion on the posts of Ticket Examiner in pay scale of Rs. 5200-20200 + G.P. Rs. 1900 against 33-1/3% quota from the eligible employees who are working in Grade Pay of Rs. 1800/- and completed three years of regular service in commercial and operating Department. The applicants being eligible candidates, applied for promotion in pursuance of the said notification. Sr. DPO issued a list of eligible employees vide Office order dated 19.1.2016 (Annexure A-3) in which the names of applicants were shown. Applicants appeared in the written examination held on 30.1.2016 and 18.2.2016 but the Respondents did not declare the result of written examination. Under RTI Act, the applicants, were informed vide reply dated 20.12.2016 (Annexure A-6) that the

departmental process would be completed in due course. Later on the respondents cancelled the entire selection process without assigning any reason vide impugned order dated 1.2.2017 (Annexure A-1).

3. Respondents filed counter reply and submitted that they came to know that there were some procedural defect in the selection process and after investigation, serious procedural defects were found in the selection process and consequently, the selection was cancelled by the competent authority and the decision has been communicated to all concerned vide letter dated 1.2.2017.

4. Heard learned counsel for applicant Sri S.M. Ali and learned counsel for respondents Sri U.N. Sharma and perused the pleadings available on record.

5. Learned counsel for applicant would contend that no specific reason has been given in the impugned order dated 1.2.2017 for cancelling the selection process for the post of Ticket Examiner. While relying upon the judgment and order dated 29.10.2014 passed by the Hon'ble High Court in Writ Petition -C No. 40533 of 2014 Ankit Tiwari and others Vs. State of U.P. and others, it has been

contended that impugned order should be quashed and respondents should be directed to declare the result.

6. Learned counsel for the respondents argued that due to procedural defects, the said selection process was cancelled by the competent authority.

7. I have gone through the judgment in Ankit Tiwari (supra). From perusal of the said judgment, it appears that the petitioners had appeared for Joint Paramedical and Nursing Entrance Examination, 2014 held by Chhatrapati Shahu Ji Maharaj University, Kanpur on 13.7.2014. Later on, the said examination was cancelled vide order dated 17.7.2014. It was provided that next date of examination would be notified through newspapers.

The petitioners had sought a direction to the respondents to publish the result of entrance examination conducted on 13.7.2014 and grant admission, on the basis thereof, to the petitioners. It was contended on behalf of the petitioners that there was absolutely no material available on record to show that any illegality or infirmity was caused in holding of the examination and the OMR sheets based on the examination of 13.7.2014 are still in the safe custody of the respondent institute and no

discrepancy therein had been reported. It was argued on behalf of the institute that decision to cancel the examination was taken in order to ensure sanctity of the process of examination itself, which cannot be said to be arbitrary. It was also submitted that merely holding of examination did not create right in favour of any examinee. Considering the fact that the said examination was cancelled on the instructions of somebody from the Chief Minister's office and no complaint actually existed on record, it was held by the Hon'ble High Court that cancellation of examination conducted on 13.7.2014 itself was without any basis and arbitrary. The cancellation of examination held on 13.7.2014 was found based upon non-existed material and thus, the impugned order dated 17.7.2014 cancelling the examination held on 13.7.2014 was quashed and a direction was issued to the respondents to forthwith process the OMR sheets of examination held on 13.7.2014 and declare the result thereof.

8. In the instant case, the respondents have not disclosed any irregularity in conduct of such examination but it was submitted that some procedural defects in the selection were found. The

respondents had informed the counsel for applicants through RTI reply dated 20.12.2016 that further action shall be taken after completion of departmental procedure. The written examination for Ticket Examiner was held on 30.1.2016 and 18.2.2016 and after about one month, the respondents cancelled the said written examination vide impugned order dated 1.2.2017.

9. No procedural defect has been pointed out on behalf of the respondents for cancelling the said examination and in absence of any complaint or material to suggest irregularity in holding of the examination or violation of any instruction issued in connection with holding of examination, no fault can be found in the process of examination. Thus, we are of the considered view that impugned order of cancellation of examination held on 30.1.2016 and 18.2.2016 is without any basis, lacking bonafide, and based upon non-existed material, and as such, it cannot be sustained.

10. Accordingly, O.A. is allowed. Impugned order dated 1.2.2017 is quashed and set aside and the respondents are directed to declare the result of the written examination held on 30.1.2016 and 18.2.2016 within a period of one month and take

consequential action in accordance with law. No order as to costs.

(Gokul Chandra Pati)
Member (A)

(Dr. Murtaza Ali)
Member (J)

HLS/-

