

**CENTRAL ADMINISTRATIVE TRIBUNAL  
CHANDIGARH BENCH**

...

**OA No. 060/00250/2015**

**Date of decision- 28.11.2017**

...

**CORAM: HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J)  
HON'BLE MRS. P. GOPINATH, MEMBER (A)**

...

Krishan Gopal Gupta son of Sh. R.S. Gupta,  
AC Tech. Grade I, Northern Railway Workshop,  
Jagadhari (Haryana).

**...APPLICANT**

**BY ADVOCATE :** Mr. Shailendra Sharma, Advocate.

**VERSUS**

1. Union of India,  
Through Chairman, Rail Board, Ministry of Railway, New  
Delhi.
2. The General Manager,  
Northern Railway HQ, Baroda House, New Delhi.
3. The Divisional Railway Manager,  
Ambala Cantt.
4. The Chief Works Manager,  
Railway Workshop, Jagadhari Distt. Yamuna Nagar  
(Haryana).
5. Anil Kumar Chauhan son of Sh. Mohinder Pratap,  
Welfare Inspector, Railway Workshop, Jagadhari  
(Haryana). [Ex-parte vide order dated 03.08.2015]
6. Ram Parvesh Yadav son of Sh. Jai Gopal Yadav,  
Welfare Inspector, Railway Workshop, Jagadhari  
(Haryana). [Ex-parte vide order dated 03.08.2015]

**...RESPONDENTS**

**BY ADVOCATE:** Mr. R.T.P.S Tulsi, Advocate along with Mr. A.K.  
Sharma, Advocate.

**ORDER**

**SANJEEV KAUSHIK, MEMBER(J):-**

The applicant has filed present O.A under Section 19 of the Administrative Tribunals Act, 1985 claiming the following relief:-

- " i) quash the Selection Penal dated 16.09.2013 (Annexure A-1) whereby respondent no. 5 & 6 selected to the post of Staff and Welfare Inspector at Railway Worksho Jagadhari as both respondent no. 5 and 6 were working under Ambala Division and thus were ineligible for appointment to the post of Staff and Welfare Inspector at Railway Workshop Jagadhari which is an independent Unit and the post therein has to be filled from amongst the candidates posted at Jagadhari Workshop in view of Railway Boards Letter Annexure A 5.
- ii) Direct the respondent to appoint the applicant to the post of Staff and Welfare Inspector as one post is still lying vacant on account of non joining of respondent no. 5 and the applicant is at merit no. 1 in the list Annexure A 4."

2. The facts are not in dispute. The applicant is working AC Tech. Grade I and posted with respondent no. 4. It is the case of the applicant that Railway Workshop, Jagadhari, is an independent unit of Indian Railways and comes directly under the supervision and administrative control of the respondent no. 2 i.e. The General Manager, Northern Railway HQ, Baroda House, New Delhi. The recruitment in Railway Workshop, Jagadhari, is conducted independently and the services of the employees posted at Railway Workshop, Jagadhari, are non transferable generally and if some employee of Railway Workshop, Jagadhari, or Indian Railways seeks to post out of either Railway Workshop Jagadhari or seeks to join Railway Workshop, Jagadhari, then such employee has to lose the seniority. The respondents notified two posts of Staff and Welfare Inspector in the pay scale of Rs. 9300-34800 with Grade pay of Rs. 4200/- at Railway Workshop, Jagadhari, as the same fell vacant which were to be filled up from amongst the serving candidates by way of limited

departmental test. Respondent no. 4 forwarded the names of two candidates posted at Railway Workshop, Jagadhari, including the applicant for the post of Staff and Welfare Officer vide letter dated 09.02.2012. Written examination took place on 18.02.2012, result of which declared by Sr. DPO Ambala Cantt. vide letter dated 06.11.2012 whereby 13 candidates were shown to have been passed the written examination. On 16.09.2013, the respondents have finalized the selection panel whereby two candidates i.e. respondent no. 5 & 6 were selected for the post of Welfare Inspector. It is the case of the applicant that both the private respondents whose names were shown cleared were not working under the Jagadhari Workshop and they were working under the Ambala Division. The applicant being one of the departmental candidate of Railway Workshop, Jagadhari, was on the top of the list for selection to the post of Welfare Inspector as reflected from letter dated 08.11.2012. The applicant has impugned the selection and appointment of private respondents having been done contrary to Railway Board Letter No. E (N.G) 1-96/P.M 4/13 dated 25.04.97 R.B.E 58/97 (Annexure A-5). The applicant has also sought information under RTI in this regard and subsequently, he made complaint to the Vigilance Cell of Northern Railway, at New Delhi, pointing out the irregularities committed by Ambala Division. When the vigilance department did not forward the complaint to the concerned quarter, father of the applicant sought information under RTI which was replied vide letter dated 04.07.2014. Pending inquiry, official respondents allowed respondent no. 6 to join the post of Welfare Inspector at Jagadhari Workshop. However, respondent no. 5 did not join the post as seen from letter dated 13.08.2014. The

applicant also made a representation allowing him to join the post as respondent no. 5 has not joined but the same has not been decided. Hence the present O.A.

3. In support of above, Mr. Sharma, learned counsel for the applicant vehemently argued that selection and appointment of private respondents is contrary to Railway Board letter dated 25.04.97 wherein it has been laid down that selection is to be made unit-wise, therefore, he prayed that impugned selection of private respondents be quashed and set aside and official respondents be directed to act upon the list prepared by Jagadhari Workshop and the applicant being 1<sup>st</sup> in the merit list be offered appointment to the post of Welfare Inspector.

4. The respondents resisted the claim of the applicant by filing written statement wherein they did not dispute the factual accuracy with regard to notifying the vacancies. However, they submitted that selection process took place as per the rule formulation and the posts were filled up as per procedure laid down in rule formulation which the respondents have followed and it cannot be said that posts are to be filled up from amongst the employees working in the Jagadhari Workshop only. It is also submitted that Jagadhari Workshop comes under the Ambala Division, therefore, persons who have been offered appointment has rightly been given appointment as they come in merit over and above the applicant. They have also taken the stand of estoppel. Hence the applicant had participated in selection, therefore, he cannot be allowed to raise alarm thereafter. They have placed reliance upon the Judgment passed in case of **Dhananjay Malik Vs. State of Uttaranchal**, 2008 (1) SCC ( L& S)

1005 & **K.H. Siraj Vs. H.C of Kerala** 2007 (3) SLR 1 para 54. They have also moved MA to place on record the Annexures MA 1 to MA 10.

5. Mr. Tulsi, learned counsel for the respondents vehemently argued that the present petition deserves to be dismissed on the ground of estoppel in view of the ratio laid down in the case of Dhanjay Malik (supra) as the applicant had already participated in selection process and later on, he cannot be allowed to challenge the selection criteria by filing present O.A.

6. We have given our thoughtful consideration to the entire matter and have perused the pleadings as available on record.

7. Conjunctive perusal of the pleadings makes it clear that two posts of Welfare Inspector at Railway Workshop, Jagadhari, was fell vacant which was notified and pursuant to that, written examination was held in the year 2012 and 13 candidates including the applicant were declared qualified in the written test as seen from Annexure A-1. Subsequently, the respondents while finalizing selection offered appointment to two candidates who have been impleaded as private respondents no. 5 & 6. The applicant has challenged their selection based upon Railway Board letter dated 25.04.1997 wherein it is held that selection is to be made unit-wise. For convenience, the relevant para of the same reads as under:-

“चयन प्रक्रिया – पात्र कर्मचारियों को , जो निर्धारित शर्तें पूरी करते हों , एक लिखित परीक्षा के एक मौखिक परीक्षा देनी होगी। यह चयन पूरे रेल संगठन के आधार पर मुख्यालय में गठित चयन बोर्ड द्वारा आयोजित किया जायेगा। यह चयन बोर्ड ही लिखित परीक्षा का प्रश्न – पत्र तैयार करेगा और मौखिक परीक्षा लेगा। रेल में प्रत्येक मंडल में सुविधाजनक स्थान पर लिखित परीक्षा ली जायेगी जिसे कोई मंडल अधिकारी आयोजित करेगा। वही मंडल अधिकारी मंडल की उत्तर-पुस्तिकाओं की जांच करेगा। 60% अंक प्राप्त करने वाले उम्मीदवार मुख्यालय में मौखिक परीक्षा के लिए बुलाये जायेंगे। लिखित व मौखिक परीक्षा के आधार पर स्थायी नियमों के अनुसार पैनल बनाया जायेगा। जिन रेलों पर निरीक्षक का संवर्ग पूर्णतः या आंतरिक रूप से विकेन्द्रीकृत कर दिया गया हो वहां चयन इकाई-वार आयोजित होगा। (बोर्ड का पत्र स० ई० (एन०जी०)1/96/पी० एम० 4/13 दिनांक 25-04-97 आर० बी० ई० 58/97) ”



The sole contention of the applicant is that since the post is to be filled unit wise as per the Board letter dated 25.04.1997, therefore, employees of unit who have cleared the examination are to be offered appointment and not to the persons who are working outside the unit which has been done by the respondents by offering appointment to private respondents in the present case. The respondents have also annexed consolidated instructions issued by Railway Board (Annexure MA-4) under the heading of "filling up the post of Welfare Inspector Gr. III" wherein they admitted that there is partial modification in earlier Board instructions dated 24.05.1966 vide subsequent Board letter dated 03.12.1991 wherein it has been decided that category of Welfare Inspector has been decentralized wholly or partially, the selection may be conducted unit wise. There is no denial by the respondents in the written statement that selection is not to be done by unit wise. This document (Annexure MA 4 as annexed by respondents at page 54) also supports the case of the applicant that the post is to be filled by unit wise. Sole contention raised by the respondents to dismiss the petition is that the applicant had already participated in selection process, which cannot be accepted if rule laid down the procedure in particular fashion then they cannot be allowed to deviate from those rules unless the competent authority allowed to do in a given fashion. Merely that the applicant had participated in selection does not bar him to challenge the selection as the same was not informed by the respondents at that time that they will appoint the persons from other units who qualify the test.

8. Accordingly, we allow the O.A and quash the impugned selection of private respondents. The matter is remitted back to the

respondents to offer appointment to eligible candidates as per the Railway Board letter as indicated above. If the applicant is found eligible, then he be offered appointment forthwith.

9. No costs.

**(P. GOPINATH)**  
**MEMBER (A)**

**(SANJEEV KAUSHIK)**  
**MEMBER (J)**

**Dated: 28.11.2017**

`jk'

