

**CENTRAL ADMINISTRATIVE TRIBUNAL,
MUMBAI BENCH, MUMBAI**

O.A. 640/2017

Dated this Thursday the 6th day of September, 2018

**Coram: Hon'ble Dr. Bhagwan Sahai, Member (A).
Hon'ble Shri R. N. Singh, Member (J).**

1. Shri Suresh Anant Patil,
Age 53 years,
Working as Khalasi Under Chief
Administrative Officer (Construction),
Central Railway, Headquarters,
at 6th Floor of New Administrative
Building, CSMT, Mumbai-400001.
R/o Room No.35, Bldg No.44,
MS-RB-I type, Central Railway Staff's
Quarters, Near Sion Railway Station,
Sion, Mumbai-400022.

...Applicant.

(By Advocate Shri D. N. Karande).

Versus

1. Union of India,
through the General Manager,
Central Railway, 2nd Floor of
General Manager's Office,
CST, Mumbai-400 001.
2. Chief Administrative Officer (Construction),
Central Railway, Headquarters office,
at 6th Floor of New Administrative Bldg.,
CSMT, Mumbai-400 001.
3. Chief Personnel Officer,
Central Railway, 1st floor of General
Manager's Office, CST Mumbai-400 001 (MS).
4. Dy. CPO (Const.),
under Chief Admn. Officer
(Construction), Central Railway,
Headquarters office,
at 6th Floor of New Administrative Bldg.,
CSMT, Mumbai-400 001.
5. Asst. Divisional Engineer (Works)
(South) at Byculla, Central Railway,
Byculla, Mumbai-400 008.

... Respondents.

(By Advocate Shri V. D. Vadhavkar).

O R D E R (O R A L)
Per : R. N. Singh, Member (Judicial)

Present.

Shri D. N. Karande, learned counsel appears for the applicant.

Shri V. D. Vadhavkar, learned counsel for the respondents.

2. By this present OA the applicant's prayer is for the following reliefs:-

"a. That this Hon'ble Tribunal may kindly be pleased to order the production of documents, files which are in possession of the respondents and which compelled to issue the impugned orders No.CR/P-HQ/EE/3/212/Promotion Group 'D' to 'C' dated 11.10.2017 (A-1) the list if eligible employees for written test scheduled to be held on 28.10.2017 (A-2). These orders be kindly set aside and Quashed in the interest f justice.

b) this Hon'ble may kindly be pleased to direct the Respondents to declare the applicant as eligible to appear for the written test to be held on 28.10.2017 and further to be considered during the selection process.

c) This Hon'ble Tribunal may direct the Respondents to take action to consider lien of the applicant in the combined pool of GM HQ Pool henceforth for all consequential benefits.

d) This Hon'ble Tribunal may kindly direct the Respondents to correct the Seniority list published by the parent office of the applicant and interpolate his name at appropriate place taking into his length of service rendered in the CAO (c) office with all the consequential benefits.

e) This Hon'ble Tribunal may kindly direct the Respondents to decide the issue of 'Retention of Lien' of the applicant in

terms of the provisions of IREM.

f) Any other relief, this Hon'ble Tribunal may deem fit to be granted to meet the ends of justice.

g) Cost of this O.A. may kindly be saddled on the respondents."

3. As Interim Relief, the applicant prays for the following reliefs:-

"Pending the present OA, the applicant prays this Hon'ble Tribunal to kindly direct the Respondents to allow the applicant to appear the Written Test to be held on 28.10.2017 and considered his candidature along-with other candidates of CPE pool.

Therefore, this Hon'ble Tribunal prayed to kindly consider request and grant this Interim relief immediately, so that the applicant will appear for written test scheduled to be held on 28.10.2017. Otherwise this OA will become infatuated."

4. Heard the counsels for the parties and perused the case record.

5. Vide interim order dated 25.10.2017 the respondents were directed to permit the applicant to appear in written examination which was scheduled on 28.10.2017 in pursuance of the notification dated 14.07.2017 for promotion to the post of Lower Division Clerk. However, the respondents were directed that the result of the Written Examination of the applicant shall be kept in a sealed cover i.e. it shall not be published until further orders. The interim order dated 25.10.2017 was continued vide order dated 08.11.2017.

6. Subsequently, vide order dated 04.12.2017 respondents were permitted to declare the result of the examination so far it relates to the applicant and file the same on record.

7. In view of the aforesaid interim relief, respondents have allowed the applicant to participate in examination and the applicant had participated in aforesaid examination and results were kept in a sealed cover by the respondents. However, in view of the order dated 04.07.2017, the respondents have opened the sealed cover in respect of the result of the applicant and the Competent Authority has passed an order dated 18.01.2018 which is annexed as exhibit R4 with the reply of the respondents dated 29.02.2018.

The Exhibit R4 dated 18.01.2018 reads as under:-

*"Confidential
Central Railway
CAO (C)'s Office
CSMT Mumbai
No.EW/206/HQ/DAR*

Shri Suresh A Patil Date:18.01.2018

*Shri Suresh A Patil
Khalasi*

*Sub: Issue of SF-11 No.EW/206/HQ/DAR dt
30.11.2017*

Ref: Your explanation dated 08.12.2017

I have carefully gone through the case file and the explanation submitted by you and do not agree with your explanation.

The written examination for the post of Jr.Clerk-Cum-Typist was held on 28.10.2017 in PCPO's office CSMT. However during this exam, O.A. Invigilator Shri Vilas Ghadale, reported using unfair means adopted by you, as a passage in English was found written on your left palm, showing intention of copying in the examination hall.

According to the Railway Servants (Discipline & Appeal) Rules 1968, I, as Disciplinary Authority, by using powers conferred upon me, hereby impose the penalty of withholding of one set of PTO for the year 2018-19.

Under Rules 18 & 19 of the Railway Service (D&A) Rules, 1968, an appeal against these orders lies with the Secretary to CAO(C). Appeal shall be preferred within 45 days from the date of receipt of this order to the Appellate Authority sending a copy of the same to the undersigned.

Please acknowledge receipt.

(M. K. Sharma)
AXEN(C) HQ &
Disciplinary Authority"

8. The learned counsel for the applicant submits that in pursuance to the liberty granted in aforesaid order dated 18.01.2018 for filing of any appeal against such order, the applicant has chosen not to file any appeal.

9. In the facts and circumstances nothing survives in the OA of the applicant. The learned counsel for the applicant further submits that the prayer 8(c) is the consequential order. It may be noted that once nothing survives for the applicant

regarding his substantial reliefs claimed, there is nothing left for being adjudicated about the consequential reliefs.

10. In the facts and circumstances, the OA therefore, has become infructuous. The OA is disposed of accordingly.

11. Liberty is accorded to the applicant to ventilate his grievances separately in case any substantial cause survives in accordance with law.

12. No order as to costs.

(R. N. Singh)
Member (J)

(Dr. Bhagwan Sahai)
Member (A)

v.