

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

O.A.No.210/0023/2015

Dated this Wednesday the 6th day of February, 2019

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

1. Mr. Ajay Basudeo Bose,
Age 42 years,
Working as Head Parcel Clerk,
LTT, Central Railway,
residing at Flat No.51/4,
Agarwad, Near Jain Society,
Behind Sion Hospital,
Sion (W), Mumbai-400 022.

...Applicant.

(By Advocate Shri Vicky Nagrani).

Versus

1. Union of India through,
The General Manager,
Central Railway,
Head Quarters Office,
C.S.T., Mumbai.
2. Deputy Chief Vigilance Officer(T),
General Managers Office,
Vigilance Branch,
C.S.T.M., Mumbai-1.
3. Divisional Railway Manager,
Mumbai Division,
Central Railway,
C.S.T.M., Mumbai.1.

... Respondents.

(By Advocates Shri V. S. Masurkar).

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

Present.

Shri Vicky Nagrani, learned counsel for
the applicant.

Shri V. S. Masurkar, learned counsel for
the respondents.

The applicant who is working as Head Parcel Clerk, LTT under the respondents is stated to be aggrieved of action of the respondents in not including his name in the provisional list of candidates for appearing in pursuance to the respondents' notification dated 25.08.2014 (Annexure A-3) issued by the Western Railway for filling up the post of Chief Vigilance Inspector under the Western Railway.

The learned counsel for the applicant submits that no reason has been communicated to the applicant for not including the applicant's name in the provisional list of candidates for appearing in pursuance to the aforesaid notification in spite of the fact that the applicant has also applied for it and is eligible for the said post. However, the applicant came to know that his name was not so included in the list for the reason that he was undergoing some given penalty imposed upon him on account of some disciplinary proceedings against him.

In the aforesaid facts, the applicant has filed the present OA and prays for the following reliefs:-

"a. This Hon'ble Tribunal may graciously be pleased to call for the records of the case from the Respondents and after examining the

same hold an declare that the applicant is also eligible to apply in pursuance of the notification dated 25.08.2014.

b. This Hon'ble Tribunal may further be pleased to direct the Respondents to conduct a written test for the Applicant and allow the Applicant to appear in the written test in pursuance of the notification dated 25.08.2014.

c. Costs of the application be provided for.

d. Any other and further order as this Hon'ble Tribunal deems fit in the nature and circumstances of the case be pleased."

In response to the notice on the aforesaid OA, the respondents have filed a reply affidavit on 09.03.2015. We have gone through the OA filed by the applicant as well as reply on behalf of the respondents and have also considered the same and also heard the learned counsels for the parties.

The learned counsel for the applicant invites our attention to para-15 of the written statements filed on behalf of the respondents which reads as under:-

"15. With reference to para 4.8 and 4.9 of the OA, the applicant submitted an representation dated 12.01.2015 stating that his name had not appeared in the list of candidates for the written test. His case was scrutinized and it was seen that there was an erroneous entry of penalty of "**withholding of increment for a period of six**

*months" vide letter No.
BB/C/DAR/MIN/VIG/146/09 dated
23.02.2010 effective from
01.07.2014 to 31.12.2014 in his
service register, which was also
erroneously incorporated in the
forwarding letter to Headquarters.
However, as the employee himself
had admitted in para-4.1 to OA that
he had several penalties till
31.12.2013, therefore no harm or
prejudice has caused to him due to
said wrong entry. The applicant was
otherwise also not eligible to
apply for the post of chief
Vigilance Inspector issued vide
Notification dated 25.08.2014"*

By referring the stand taken by the respondents noted herein above, the learned counsel for the applicant submits that the stand of the respondents itself clearly indicates that the candidature of the applicant has not correctly been considered and same has been considered on admitted erroneous facts.

He further argues that so far the penalty as suffered by him is concerned, all those penalty / penalties were over by 31.12.2013 and thus w.e.f. 01.01.2014 there was no impediment in the way of the applicant for being considered in pursuance to the aforesaid notifications of the respondents. The learned counsel for the applicant further submits that the respondents have not only erroneously cancelled the candidature of the applicant but also neglected the applicant's claim

in as much as the applicant has preferred the letter dated 12.01.2015 (Annexure A-6). However, the same has not been considered by the respondents.

In the facts and circumstances, we are of the considered view that the OA can be disposed of with directions to the respondents that the Competent Authority under the respondents considered the aforesaid representation dated 12.01.2015 (Annexure A-6) of the applicant and pass a reasoned and speaking order within six weeks from the date of receipt of certified copy of this order. We order accordingly.

In the aforesaid terms, the OA is disposed of. No order as to costs.

(R. N. Singh)
Member (J)

(Dr. Bhagwan Sahai)
Member (A)

V.

