

**Central Administrative Tribunal
Principal Bench**

**OA No.4004/2011
With
OA No.1746/2013
MA No.1403/2013
OA No.1747/2013
OA No.52/2014
MA No.66/2014
OA No.340/2015**

New Delhi, this the 21st day of May, 2019

**Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Ms. Aradhana Johri, Member (A)**

I. OA No.4004/2011

Shri Shiv Charan Saini,
S/o Shri Ram Kishan Saini,
Working as Investigating Inspector
Vigilance,
Under Vigilance Directorate,
Room No.564/N, Rail Bhawan,
New Delhi-110 001.

...Applicant

(By Advocate : Shri M.S. Reen)

Versus

Union of India : through

1. The General Manager,
Northern Railway,
Baroda House,
New Delhi.
2. The Controller of Stores,
Northern Railway,
Headquarter's Office,
Baroda House,
New Delhi.
3. Shri Satbir Singh,
Assistant Material Manager,
Northern Railway,

BCD Depot,
Ambala Cantt (Haryana)

...Respondents

(By Advocate : Shri Satpal Singh with Ms. Neetu Mishra)

II. OA No.1746/2013

Shri Rajesh Pathania,
S/o Late Sh. Karnail Singh,
Working as Chief Depot Material Supdt.,
Under Dy. Chief Material Manager,
Northern Railway,
Charbagh,
Lucknow (U.P.)

...Applicant

(By Advocate : Shri M.S. Reen)

Versus

Union of India : through

1. The Secretary,
Ministry of Railways,
Rail Bhawan,
Railway Board,
New Delhi.
2. The General Manager,
Northern Railway,
Headquarter's office,
Baroda House,
New Delhi.
3. The Controller of Stores,
Northern Railway,
Headquarter's Office,
Baroda House,
New Delhi.
4. Shri Satbir Singh,
Assistant Material Manager,
Northern Railway,
Kalka, (Haryana)

...Respondents

(By Advocate : Shri Satpal Singh with Ms. Neetu Mishra)

III. OA No.1747/2013

Shri Rama Shanker Yadav,
S/o Late Shri Ram Ajor Yadav,
Working as DMS-I,
Under Dy. Chief Material Manager,
Northern Railway,
Charbagh,
Lucknow (U.P.)

...Applicant
(By Advocate : Shri M.S. Reen)

Versus

Union of India : through

1. The Secretary,
Ministry of Railways,
Railway Board,
(Rail Bhawan),
New Delhi.
2. The General Manager,
Northern Railway,
Baroda House,
New Delhi.
3. The Controller of Stores,
Northern Railway,
Headquarter's Office,
Baroda House,
New Delhi.
4. Shri Satbir Singh,
Assistant Material Manager,
Northern Railway,
Electrictraction,
Ludhiana (Punjab).

...Respondents

(By Advocate : Shri Satpal Singh with Ms. Neetu Mishra)

IV. OA No.52/2014

Shri Y.S.Tanwar,
S/o Shri Bhim Singh Tanwar
Working as Asstt Manager,
Under Northern Railway,
Alambagh, Lucknow (U.P.).

(By Advocate : Shri M.S. Reen)

...Applicant

Versus

Union of India : through

1. The Secretary,
Ministry of Railways,
Railway Board,
Rail Bhawan,
New Delhi.
2. The General Manager,
Northern Railway,
Headquarter's office,
Baroda House,
New Delhi.
3. The Controller of Stores,
Northern Railway,
Headquarter's Office,
Baroda House,
New Delhi.
4. Shri Satbir Singh,
Assistant Material Manager,
Northern Railway,
Kalka, (Haryana)

...Respondents

(By Advocate : Shri Satpal Singh with Ms. Neetu Mishra)

V. OA No.340/2015

Shri Satbir Singh,
S/o Shri Mool Chand,
Aged 52 years,
Working as Assistant Material Manager,
Northern Railway,

Baroda House,
New Delhi.

(By Advocate : Ms. Meenu Mainee)

...Applicant

Versus

Union of India : through

1. The General Manager (P),
Northern Railway,
Baroda House,
New Delhi.
2. Railway Board,
Ministry of Railways,
Government of India,
New Delhi
Through its Chairman,
New Delhi.

...Respondents

(By Advocate : Shri Satpal Singh with Ms. Neetu Mishra)

ORDER (ORAL)

Justice L. Narasimha Reddy, Chairman :-

A small error which crept in the selection process for the post of Assistant Material Manager (for short, AMM), in the Northern Railway, gave rise to filing of this batch of OAs.

2. The applicants herein, were holding the post of Depot Manager Store (for short, DMS), Group 'C', in the year 2003. The promotion from that post is to the post of AMM, in Group 'B'. The facility of selection through

Limited Departmental Competitive Examination (for short, LDCE), to the extent of 30% of the vacancies is provided. This is through holding of written test. All the applicants herein, and other eligible candidates, participated in the said examination, held in the year 2003. The applicant in OA No.340/2015, Shri Satbir Singh was selected along with some others, whereas the applicants in other OAs were not selected.

3. After the promotions were made in the year 2003, several candidates submitted representations, stating that Shri Satbir Singh and other candidates were awarded marks beyond their entitlement. It was alleged that they were awarded marks to the answers to extra questions. The matter was enquired into and it was found that Satbir Singh was awarded 20 marks in relation to an extra question. Therefore, a show cause notice was issued to him on 03.02.2014, requiring him to explain, as to why the promotion extended to him be not withdrawn. He submitted representations and not satisfied with the same, the Appointing Authority passed an order dated 31.03.2014, withdrawing the promotion. The same is challenged in OA No.340/2015.

4. In other OAs, the applicants plead that they are entitled to be promoted against the resultant vacancies. However, they were informed through a communication dated 29.07.2011, that though Shri Satbir Singh was liable to be reverted, they cannot be promoted since there were other candidates, who were more meritorious than them. The same is challenged in OA No.4004/2015. Replies on the same lines, but with slight difference as to the description, were issued to the applicants in other OAs. Those orders are challenged in the other OAs.

5. The applicants contend that the respondents have committed serious irregularities in the process of selecting candidates under the LDCE for promotion to the Group 'B' post in the year 2003, and that even after the irregularities were noticed, corrective steps were not taken. On his part, Shri Satbir Singh, submitted that he has been promoted on the basis of his selection and for no fault of him, he was reverted after more than 10 years of his working, in the promoted post, without any blemish.

6. Respondents filed separate counter affidavits opposing the OAs. It is stated that on account of a mistake as to calculation of marks, particularly, in the answer script of Shri Satbir Singh, he was extended the promotion wrongfully and after verification of the record, they issued notice to him and the mistake was rectified. It is also stated that applicants in other OAs are not entitled to be promoted, having regard to their place in the merit list.

7. We heard Shri M.S. Reen and Ms. Meenu Mainee, learned counsel for applicants and Shri Satpal Singh, learned counsel for respondents.

8. First, the case of Shri Satpal Singh i.e. OA No.340/2015 is taken up. It is not in dispute that he has been selected in LDCE and was promoted to Group 'B' post in the year 2003. That was on the basis of his marks in the answer script. Subsequent verification revealed that he answered one question over and above what was stipulated in the examination and the answer to that question was awarded 20 marks. In the process of totalling, marks awarded to the extra question were

taken into account and he was selected. The elimination of those 20 marks pushed him down in the merit list and accordingly a Show Cause Notice was issued to him. He does not dispute that he answered extra question, and the marks awarded to him cannot be taken into account at all. He cannot take advantage of the error committed by the respondents.

9. Reliance is placed on the judgment of Hon'ble Supreme Court in ***Vikas Pratap Singh and Ors. Vs. State of Chhattisgarh and Ors.*** Civil Appeal No.5318 of 2013 and batch. That was a case in which the Hon'ble Supreme Court was dealing with the candidates whose services were terminated, on finding that a serious mistake has taken place in the selection process. It was held that the applicants therein, who were working for a long time, cannot be penalised for no fault of them. At the same time, the Hon'ble Supreme Court observed that they cannot be permitted to take advantage of the illegality that had crept in. As a balancing exercise, it was directed that appellants therein, be continued in service, but by placing them at the bottom of the seniority list.

10. In the instant case, Shri Satbir Singh did not face any removal from service. Added to that, within a short time of his reversion, he was promoted to that very post. The only relief, which can be granted to him, is that no amount representing the difference of salary, shall be recovered, on account of the order of reversion.

11. So far as the other applicants are concerned, it emerges that on account of reversion of Shri Satbir Singh, only one vacancy has arisen and none of them are in the next place in the merit list. Nearly 8 persons are above them. Therefore, no relief can be granted to them.

12. Hence, OA No.340/2015 is partly allowed, upholding the order of reversion, but, directing that no recovery shall be made from him, on account of the reversion. Other OAs are dismissed.

Pending MAs, if any, stand disposed of.

There shall be no order as to costs.

(Aradhana Johri)
Member (A)

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(Justice L. Narasimha Reddy)
Chairman