

Reserved
(On 15.07.2019)

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Dated: This the 18th day of July 2019

Original Application No. 330/01105 of 2018

Hon'ble Ms. Ajanta Dayalan, Member – A
Hon'ble Mr. Rakesh Sagar Jain, Member – J

Ajay Chand Mehrotra, S/o Late Sh. Vijay Chand Mehrotra, R/o L.I.G. 128, Kalandipuran Rajrooppur, Allahabad. Distt. Allahabad Uttar Pradesh.

... Applicant
By Adv: Shri A.K. Trivedi and Shri Aman Mehrotra.

V E R S U S

1. General Manager, Northern Central Railways (Headquarter), Subedarganj, Allahabad. UP 211015.
2. Divisional Railway Manager, Allahabad Division, DRM Office, Nawab Yusuf Road, Civil Lines, Allahabad. UP 211001.
3. Assistant Personnel Officer, Northern Central Railways, Allahabad Division, Nawab Yusuf Road, Civil Lines, Allahabad. UP 211001.
4. Sr. Divisional Electrical Engineer / Chg., Northern Central Railways, Allahabad Division, Nawab Yusuf Road, Civil Lines, Allahabad. UP 211001.
5. Senior Section Engineer, Train Lighting, Northern Central Railways, Allahabad Division, Allahabad.

... Respondents
By Adv: Shri Atul Kumar Shahi

O R D E R

By Hon'ble Ms. Ajanta Dayalan, Member – A

The present OA has been filed by the applicant – Ajay Chand Mehrotra, seeking setting aside the impugned order dated 24.08.2018 passed in response to his representation dated 22.07.2018. He has also sought his promotion to Junior Engineer / Electrical General under promotion quota as per the examination held on 14.07.2018 with all consequential benefits. He has further sought non-declaration of the result of the said examination and keeping one post vacant for him.

2. The basic facts of the case are not in dispute. The applicant was initially appointed as Electric Fitter (Diesel) in Western Railway, Ratlam Division on 17.12.1985. He was later-on transferred to Diesel Locomotive Works, Varanasi in 1988 and since then he is working at Allahabad. On 05.10.2017, the department notified posts for recruitment under 25% quota for the posts of Junior Engineer (Annexure No. 1). The applicant submitted his application. He was also called for written examination vide letter dated 22.02.2018 (Annexure No. 2), having been found eligible. His name occurs at Sl. No. 9 in the list of eligible candidates. The main written examination was to be held on 10.03.2018 and the supplementary written examination was to be held on 17.03.2018. This order also states that all the listed employees should be spared for written examination prior to examination and should not be stopped from appearing in the examination without reason. Further, this order states that in case the employee refuses to appear, his refusal letter should be sent to the issuing officer. The main written examination was rescheduled and was held on 14th July 2018, but the applicant did not appear in the same. These facts are undisputed.

3. The case of the applicant is that as per order dated 22.02.2018, the selected candidates were to be released from their duties by issuing spare letter. The applicant was, however, not issued any spare letter. On 23.04.2018, the applicant wrote a letter to Divisional Railway Manager, stating that he received a letter dated 07.03.2018 reflecting postponement of written examination and it's rescheduling on 17.03.2018. He sought grant of promotion as his retirement was approaching (Annexure No. 3). Respondents issued letter dated 05.07.2018, changing the dates of main and supplementary examinations to 14th and 21st of July 2018 in place of 7th and 14th of July 2018 notified earlier on 12.06.2018 due to unavoidable reasons (Annexure No. 4). The applicant, however, states that he was not intimated about change of dates and was not issued any spare letter for

appearing in the examination despite his asking officer-in-charge namely Ram Singh and some others number of times. He alleges that this was a conspiracy against him to stop him from appearing in the examination. He also states that when he learnt that the main examination was going on in DRM's office on 14.07.2018, he reached his office and asked for clarification as to why he was not issued spare letter. He was then issued an intimation letter, stating that the applicant was allowed to sit in supplementary examination scheduled to be held on 21.07.2018 (Annexure No. 5). This letter is dated 14.07.2018. The applicant further states that on 20.07.2018 order were issued by the respondent department to spare the applicant for the examination to be held 21st July 2018. However, on 21.07.2018, the examination was not held (Annexure No. 8). He states that he made representation dated 22/23.07.2018 to various authorities and also filed an OA No. 745 of 2018 before this Tribunal, which was decided on 06.08.2018 at the admission stage itself, directing the respondents to consider his representation 23.04.2018 by passing a reasoned and speaking order within a period of two months. This representation has been decided by the impugned order dated 24.08.2018.

4. Basically, the case of the applicant is that he has not been allowed to appear in the written examination with malicious motive and he was not informed about changes in date of examination and was not spared for appearing in the examination. Besides above, the applicant has also enclosed certain information received by him in reply to his RTI quarries, which according to him is inconsistent.

5. The respondents have contested the claim of the applicant. They have stated that the impugned order dated 24.08.2018 has been passed after duly considering the facts of the case. They have stated that the examination for promotee quota of 25% for Junior Engineer post in

Electrical General was originally scheduled for 10 March 2018 (main examination) and 17th March 2018 (supplementary examination). These dates were later changed vide order dated 05.07.2018 to 14th and 21st July 2018 respectively. No employee was stopped from appearing in the examination due to administrative reasons. The applicant was also released for the examination held on 14th July 2018. However, he remained absent and no information regarding his absence was received in the office, which is indicative of irresponsible behaviour on his part and is against Conduct Rules. The respondents have also enclosed order dated 13.07.2018 reliving the applicant (alongwith 7 others) for participating in the examination held on 14.07.2018 (Annexure CR-3). They have also stated that allegation of malice is baseless and the OA lacks merit and deserves to be dismissed.

6. We have heard the learned counsels for both the parties and have also gone through the pleadings on record.

7. The issue in question in this case is rather limited. This is whether the applicant was withheld from appearing in the examination due to non-issue of spare letter to him. It is not disputed that initially two dates were fixed for examination - the main examination on 10.03.2018 and supplementary examination on 17.03.2018. Later, these were changed and main examination was to be held on 14.07.2018 and supplementary examination on 21.07.2018. It is also undisputed that the applicant was in the list of eligible candidates. The respondents have unequivocally stated that no candidate was stopped from appearing in the examination due to administrative reasons. We also find clear order to this effect. Reference can be invited to original notification dated 05.10.2017 itself (Annexure No. 1). This fact is also stated categorically in the impugned order as well. We also find that first change of dates of examination was duly intimated vide order dated 05.07.2018 (Annexure No. 4). Also, letters filed by the

respondents in Annexure CR-3 dated 13.07.2018 also clearly indicates the name of the applicant amongst the list of 8 candidates to be spared for 14th July, 2018 examination. Hence, we see no document or evidence to prove the allegation of the applicant that he was stopped from appearing in the examination. He has also not made any person by name as party in the OA. Hence, ground of malice cannot be taken by him. We observe that the applicant in his first representation on 23.04.2018 has talked about the change in dates of the written examination to 17.03.2018. But here, he has never talked of spare letter not having been issued to him and his not appearing in the examination. He does not talk about appearing in the examination at all. He is only asking for grant of promotion to him as he is nearing his retirement.

8. Vide impugned order dated 24.08.2018 another representation dated 22/23.07.2018 has been decided. This basically reiterates that the main examination was finally held on 14.07.2018 and the applicant was released from work for appearing in the examination. But he did not appear, reasons for which were not informed to the office by the applicant. They have also stated that this conduct is violative of Conduct Rules.

9. All the evidence that we have perused does not show any reasons for us to believe that the applicant was not spared for appearing in the examination. On the other hand, there is evidence to prove that he was spared for the examination, but did not appear. Apparently, he has not appeared in the examination of his own violation and is now claiming promotion without passing the examination.

10. In view of the above, request of the applicant is clearly baseless and not borne out on any evidence or logic. The OA is, therefore, dismissed being devoid of merit. There is no order as to costs.

(Rakesh Sagar Jain)
Member – J