

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH
CIRCUIT SITTING : BILASPUR

Original Application No.203/00823/2019

Bilaspur, this Tuesday, the 17th day of September, 2019

HON'BLE SHRI NAVIN TANDON, ADMINISTRATIVE MEMBER
HON'BLE SHRI RAMESH SINGH THAKUR, JUDICIAL MEMBER

1. **Parshuram Kumar**, S/o Shri Ram Kishon Pandit, Aged about 37 Yrs., Unemployed, R/o Vill-Meharpur, PO-Ranabigha, Dist: Nalanda (Bihar)803103.

2. Hari Om Yadav S/o Shri Khem Chandra Yadav, Aged about 37 Yrs. Unemployed, R/o Near Home Guard Training Centre, Ritu Vihar Colony, Gwalior Road, Jhansi (UP)-284001

3. Chandan Kumar S/o Shri Jiti Prasad, Aged about 31 Yrs, Unemployed, R/o Vill: Sammaspur-803201, PO: Fatuha, Dist. Panta (Bihar).

4. Rakesh Ranjan, S/o Shri Sachchida Nand Sinha, Aged about 29 Yrs, Unemployed, R/o MO-Bairagi PO: R.S. In front of Rajbhawan, Gaya (Bihar)-823002.

5. Binod Mahto, S/o Shri Sakaldeo Mehto, Aged about 29 Yrs., Unemployed, R/o AT&PO: Bari Aighu, Dist. Begusarai (Bihar)-851129.

6. Abdesb Kumar Singh, S/o Shri Kripa Ram Dohare, Aged about 43 Yrs, Unemployed, RO: HN 699, Near Ram Nagar, SBI Ajeet Nagar, Etawah (UP)206001.

7. Amresh Kumar S/o Shri Rajaram Mahto, Aged about 30 Yrs, Unemployed, R/o C/o America Prasad, Vill:Raslpur, PO: Nagvan, PS-Kako, Dist.Jehanabad (Bihar)804420

-Applicants

(By Advocate –Shri B.P.Rao)

V e r s u s

1. Union of India, Through: The General Manager,
S.E.C.Railway, Bilaspur Zone, Headquarters' Office,
Bilaspur-495004 (CG)

2. The Chief Personnel Officer, S.E.C.Railway, Bilaspur Zone, Headquarters Bilaspur-495004

3. The Chairman, Railway Recruitment Board,
GM Office, S.E.C.Railway, Head Quarters
Bilaspur-495004

- **Respondents**

(By Advocate –Shri Vivek Verma)

ORDER

By Navin Tandon, AM:-

The applicants are aggrieved by their non-appointment consequent to their empanelment in terms of Employment Notice 04/2010 as Junior Clerk-cum-Typist. In lieu thereof, in this Original Application they have now prayed for a direction to the respondents to consider their appointment against the vacancies notified in 2019.

2. The applicants have submitted as under:-

2.1 Respondent-RRB issued a Centralised Employment Notice 04/2010 for filling 97 vacancies of Junior Clerk-cum-Typist. Against which the applicants had applied and participated in two stages of written examinations, which were held in between 01.09.2013 and 19.01.2014. Thereafter they had also participated in the Typewriting skill test which was held on 06.08.2014. After qualifying the skill test, they were called for document verification on 17.10.2014. A list of 49 additional candidates, including the

applicants, was issued vide letter dated 19.09.2014 (Annexure A-30). From the said list 19 candidates were appointed. Thereafter the respondents issued another 'Standby list' of 30 candidates vide letter dated 29.01.2015 (Annexure A-31). Thereafter, from the said stand-by list the respondents issued appointment orders in favour of five more candidates on 30.05.2016 (Annexure A-32). However, the respondents have not issued appointment orders in favour of the present applicants. Instead, the respondents have now issued Centralised Employment Notice No.CEN/1/2019 for filling up 4319 vacancies which include backlog vacancies as well.

2.2 In support of their claim the applicants have relied on the following decisions:

(i) **R.S.Mittal Vs. Union of India**, 1995 Supp(2) SCC 230: 1995 SCC(L&S) 787 wherein their lordships have held that there has to be justifiable reason to decline to appoint a person who is on the select panel.

(ii) **A.P.Aggrawal Vs. Govt. of NCT of Delhi**, (2000) 1 SCC 600 wherein their lordships have held that it is not open for the Government to ignore the panel which was already approved and accepted by it and resort to a fresh selection process without giving any proper reason for resorting to the same.

(iii) **Dir.S.C.T.I for Med.Sci. and Tech. and another Vs. M.Pushkaran**, (2008) 1 SCC 448 wherein their lordships have taken into consideration aforementioned decisions in the matters of **R.S.Mittal** (supra) and **A.P.Aggrawal** (supra).

(iv) **State of Rajasthan Vs. Jagdish Chopra**, (2007) 8 SCC 161 wherein it has been held that recruiting agency should prepare waiting list only to the extent of anticipated vacancies.

3. The applicants have prayed for the following reliefs:

“(8.1) That the Hon’ble Tribunal be pleased to allow the O.A. and by calling entire relevant records from the possession of Respondents for its kind perusal to decide the Applicant’s grievance.

(8.2) That the Hon’ble Tribunal be pleased to pass an Order, directing the Respondents to consider the Appointment of Applicants against the vacant posts of Jr.Clerk cum Typist as per Employment Notification No.CEN 01/2019 in the interest of justice”.

4. Heard the learned counsel for the applicants on admission.

5. On perusal of Annexures A-31 and A-32, we find that in response to the Centralised Employment Notice 04/2010 for filling of vacancies of Junior Clerk-cum-Typist, the result was issued on 29.01.2015 (Annexure A-31) wherein 30 candidates, which include the applicants are listed in Annexure-III as “Candidates who were lower in merit and could not be considered for empanelment due to non-availability of vacancies – Standby list”. Only after a demand

was received from Modern Coach Factory, Raebareli, the respondents appointed five candidates from the said stand-by list vide order dated 30.05.2016 (Annexure A-32).

6. We find that the order dated 29.01.2015 (Annexure A-31) clearly shows that the candidates figured therein were lower in merit and could not be considered for empanelment due to non-availability of vacancies. Therefore the bald allegation of the applicant raised in this OA about existence of vacancies cannot be accepted.

7. The applicants cannot claim appointment against the vacancies now notified in the year 2019 merely on the ground that their names were placed in the standby list consequent to Employment Notice 04/2010. It is also emphasized that the applicants were not considered for empanelment.

8. As regards the reliance placed by the learned counsel for the applicants on various decisions referred to in para 2.4 above we find that –

(i) In the matters of **R.S.Mittal** (supra) the issue involved was of appointment of Judicial Member in Income Tax Appellate Tribunal. Wherein their lordships have held that when a person has been selected by the Selection Board and there is a vacancy which can be offered to him keeping in view his merit position, then

ordinarily there is no justification to ignore him for appointment. However, in the present case, we find that the applicants could not be appointed due to non-availability of vacancies as clearly mentioned in Annexure A-31.

(ii) In the matters of **A.P.Aggarwal** (supra) the issue was of appointment of Member Sales Tax Appellate Tribunal. In the said matter their lordships found that when all the conditions set out by the Central Government were fulfilled, the rejection of appellant's name without any reason was arbitrary and unconstitutional and that initiation of fresh process of selection was not valid. In the instant case we find that process of selection was ended on 29.01.2015 when 30 candidates, including the applicants listed in Annexure-III could not be empanelled due to non-availability of vacancies and were kept in the Standby list. Therefore there was no arbitrariness on the part of the respondents in not appointing the applicants only because of non-availability of vacancies.

(iii) In the matters of **M.Pushkaran** (supra) the issue involved was of appointment to the post of security guard. There were three permanent posts. The select list contained names of five candidates. The name of the respondent appeared at Sr.No.4. The third candidate declined the appointment. Their lordships have held that there was no reason not to offer any appointment in his favour.

These are not the facts here. In the instant case it is the specific stand of the respondents that there were no vacancies.

(iv) In the matters of **Jagdish Chopra** (supra) their lordships have held that the learned Single Judge of the High Court was correct in holding that the second respondent had no legal right to be appointed and furthermore the Division Bench was not at all justified in directing grant of service benefits to the respondents. Since the State had appointed the respondent during the pendency of the SLP, the order of appointment was not set aside.

(v) Thus, having gone through the aforementioned decisions we are of the considered view that all these four decisions are not applicable in the present case.

9. Accordingly, we do not find any merit in this Original Application and the same is dismissed in limine.

(Ramesh Singh Thakur)
Judicial Member

(Navin Tandon)
Administrative Member

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