

**LIBRARY**

1 o.a. 1135.2011, o.a. 244.2015, m.a. 47.2015, m.a.  
445.2015, m.a. 893.2017, m.a. 152.15, m.a. 47.15, o.a.  
232.2016, o.a. 1365.2015, o.a. 1432.2015, o.a. 1706.2015

**CENTRAL ADMINISTRATIVE TRIBUNAL  
KOLKAT BENCH, KOLKATA**

**Reserved on: 17.9.2019**

**Date of order: 08.11.2019**

Present : Hon'ble Ms. Bidisha Banerjee, Judicial Member  
Hon'ble Dr. Nandita Chatterjee, Administrative Member

- O.A. 1135 of 2011**
1. Subhas Chatterjee,  
Son of Late Ranajit Chatterjee,  
Aged about 47 years,  
Working as Technician Grade -II,  
T.NO. 12/624,  
Office of the Senior Section Engineer,  
Electric Loco Shop-12,  
Chittaranjan Locomotive Works,  
Chittaranjan, P.O Chittaranjan,  
Dist-Burdwan,  
Pin-713331,  
residing at - Street No. 28,  
Quarter No. 19/B,  
P.O Chittaranjan, Dist. Burdwan,  
Pin-713331.
  2. Sri Debasish Sarkar,  
Son of Late Bejoy Krishna Sarkar,  
Aged about 47 years,  
Working as Technician Grade - II,  
T. No. 56/357,  
Office of the Senior Section Engineer,  
Maintenance Shop 56,  
Chittaranjan Locomotive Works,  
Chittaranjan, P.O Chittaranjan,  
Dist-Burdwan, Pin 713331,  
Residing at - Street No. 40,  
Quarter No. 4/19C, P.O Chittaranjan,  
Dist. Burdwan, Pin 713331.
  3. Sri Deepak Kumar Mondal,  
Son of Late Dukhan Mondal,  
Aged about 45 years,  
Working as Technician Grade -I (Welder),  
T.No. 26/896,  
Office of the Senior Section Engineer,  
Electric Loco Shop-26,

2 o.a. 1135.2011, o.a. 244.2015, m.a. 47.2015, m.a.  
445.2015, m.a. 893.2017, m.a. 152.15, m.a. 47.15, o.a.  
232.2016, o.a. 1365.2015, o.a. 1432.2015, o.a. 1706.2015

Chittaranjan Locomotive Works,  
Chittaranjan, P.O Chittaranjan, Dist-  
Burdwan, Pin 713331,  
Residing at - Street No. 30,  
Quarter No. 11/B,  
P.O Chittaranjan, Dist. Burdwan,  
Pin 713331.

4. Sri Dinesh Prasad Singh,  
Son of late Faujdar Narayan Singh,  
Aged about 44 years,  
Working as Technician Grade - II,  
T. NO. 05/234,  
Office of the Senior Section Engineer,  
Electric Loco Bogie Shop- 05,  
Chittaranjan Locomotive Works,  
Chittaranjan, P.O Chittaranjan,  
Dist-Burdwan, Pin 713331,  
Residing at Street No. 48,  
Quarter No. 9/D,  
P.O Chittaranjan, Dist. Burdwan,  
Pin 713331.
5. Abul Ahmed,  
Son of Md. Sulaiman,  
Aged about 40 years,  
Working as Technician Grade - II,  
T. NO. 05/184,  
Office of the Senior Section Engineer,  
Electric Loco Bogie Shop- 05 ,  
Chittaranjan Locomotive Works,  
Chittaranjan, P.O Chittaranjan,  
Dist-Burdwan,  
Pin 713331,  
Residing at Masjid Road,  
Mihijam, P.O Mihijam,  
Dist. Jamtara, Jharkhand,  
Pin: 815354.
6. Sri Pankaj Kumar Mallik,  
Son of Nimai Chandra Mallik,  
Aged about 46 years,  
Working as Technician Grade -II (Machinist),  
T. NO. 05/246,  
Office of the Senior Section Engineer,  
Electric Loco Bogie, Shop- 05,  
Chittaranjan Locomotive Works,  
Chittaranjan, P.O Chittaranjan,  
Dist-Burdwan, Pin 713331,  
Residing at Simanta Pally,  
P.O Rupnarayanpur, Dist. Burdwan,  
Pin 713364.

*hsh*

3 o.a. 1135.2011, o.a. 244.2015, m.a. 47.2015, m.a.  
445.2015, m.a. 893.2017, m.a. 152.15, m.a. 47.15, o.a.  
232.2016, o.a. 1365.2015, o.a. 1432.2015, o.a. 1706.2015

7. Sri Kalyan Pal,  
Son of Nripendra Pal,  
Aged about 42 years,  
Working as Technician Grade - I  
(Black Smith), T. NO. 03/221,  
Office of the Senior Section Engineer,  
Smithy & Forging Shop- 03,  
P.O Chittaranjan, Dist-Burdwan,  
Pin 713331,  
Residing at - Kulti Thana More,  
P.O Kulti, Dist. Burdwan,  
Pin : 713343.
8. Sri Gautam Bagchi,  
Son of Late Ramendra Sundar Bagchi,  
Aged about 45 years,  
Working as Technician Grade - I (Turner),  
T. NO.12/492,  
Office of the Senior Section Engineer,  
Electric Loco Shop-12 , P.O Chittaranjan,  
Dist-Burdwan,  
Pin 713331,  
Residing at - Street No.2/C ,  
Quarter No. 2/C, P.O Chittaranjan,  
Dist-Burdwan.
9. Sri Biswajit Majumdar,  
Son of Late Ashim Kumar Majumdar,  
Aged about 43 years,  
Working as Technician Grade - I (Machinist),  
T. NO.05/246,  
Office of the Senior Section Engineer,  
Electric Loco Bogie Shop- 05,  
Chittaranjan Locomotive Works,  
Chittaranjan, Dist-Burdwan,  
Residing at - Street No. 83 ,  
Quarter No. 25/17/A,  
P.O Chittaranjan,  
Dist. Burdwan.
10. Sri Sanjay Kumar,  
Son of Sri Yugeshwar,  
Aged about 43 years,  
Working as Technician Grade - I (Machinist),  
T. NO.05/215,  
Office of the Senior Section Engineer,  
Electric Loco Bogie Shop- 05,  
Chittaranjan Locomotive Works,  
Dist-Burdwan,  
Residing at - Street No.84 ,  
Quarter No. 22/B,  
P.O Chittaranjan,  
Dist. Burdwan.
11. Sri Soumendra Nath Kundu,

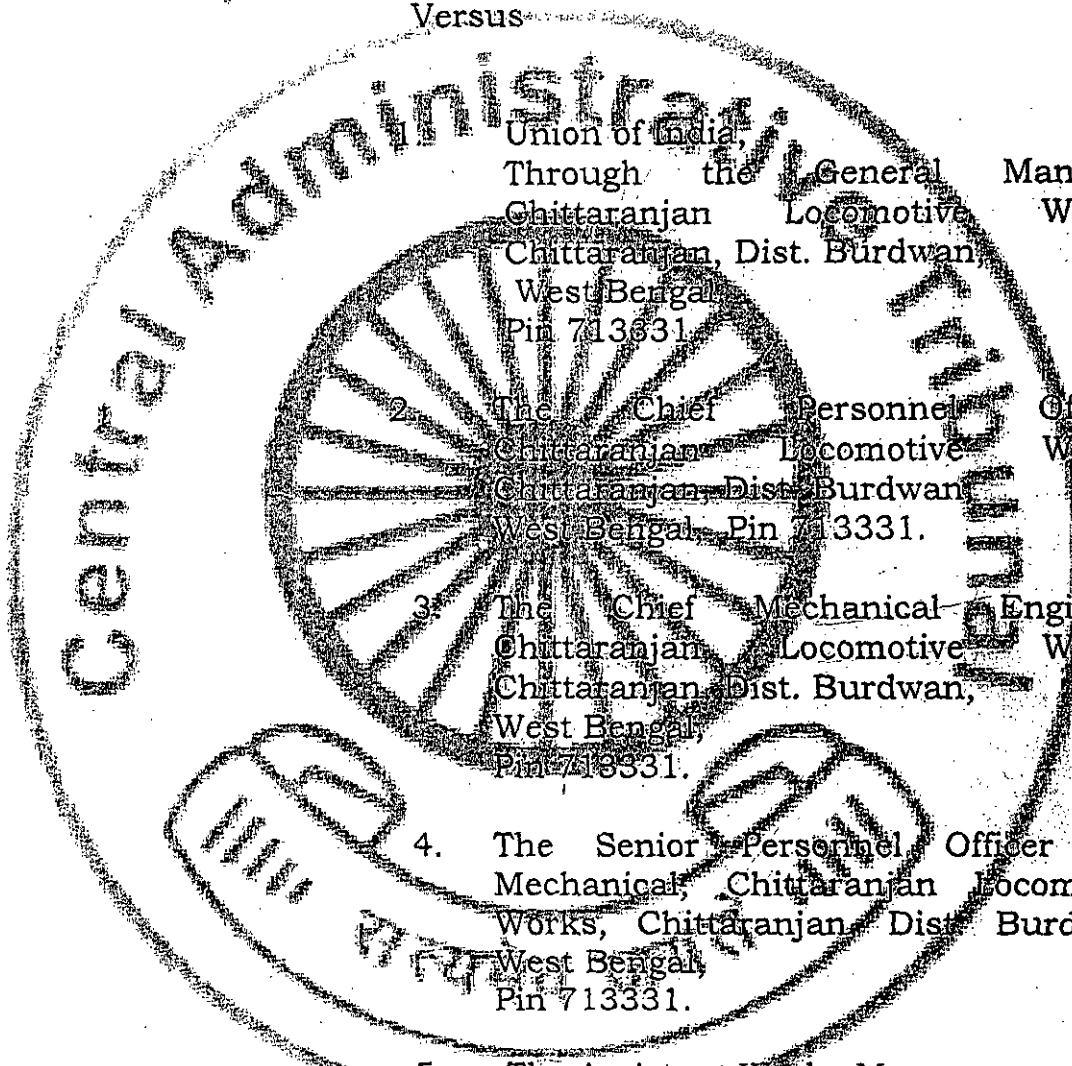
hkm

4 o.a. 1135.2011, o.a. 244.2015, m.a. 47.2015, m.a.  
445.2015, m.a. 893.2017, m.a. 152.15, m.a. 47.15, o.a.  
232.2016, o.a. 1365.2015, o.a. 1432.2015, o.a. 1706.2015

Son of late Subhas Chandra Kundu,  
Aged about 39 years,  
Working as Technician Grade -I (Fettler),  
T. NO. 35/655,  
Office of the Senior Section Engineer,  
Fettling Shop-35, Steel Foundry,  
P.O Chittaranjan, Dist-Burdwan,  
Residing at - Street No. 88,  
Quarter No.27/A, P.O Chittaranjan,  
Dist. Burdwan, Pin 713331.

--Applicants

Versus

- 
1. Union of India,  
Through the General Manager,  
Chittaranjan Locomotive Works,  
Chittaranjan, Dist. Burdwan,  
West Bengal,  
Pin 713331.
  2. The Chief Personnel Officer,  
Chittaranjan Locomotive Works,  
Chittaranjan, Dist. Burdwan,  
West Bengal, Pin 713331.
  3. The Chief Mechanical Engineer,  
Chittaranjan Locomotive Works,  
Chittaranjan, Dist. Burdwan,  
West Bengal,  
Pin 713331.
  4. The Senior Personnel Officer (W),  
Mechanical, Chittaranjan Locomotive  
Works, Chittaranjan, Dist. Burdwan,  
West Bengal,  
Pin 713331.
  5. The Assistant Works Manager,  
Electric Loco Fabrication,  
Chittaranjan, Dist. Burdwan,  
West Bengal,  
Pin 713331.
  6. Sri Ajoy Kumar Choubey,  
Technician Grade-II  
(under Training for Apprentice  
Mechanics Inter Stage, Mechanical),  
Service through the Principal,  
Technical Training Centre,  
Chittaranjan Locomotive Works,  
P.O. Chittaranjan, Dist. Burdwan,  
West Bengal,

*hch*

5 o.a. 1135.2011, o.a. 244.2015, m.a. 47.2015, m.a.  
445.2015, m.a. 893.2017, m.a. 152.15, m.a. 47.15, o.a.  
232.2016, o.a. 1365.2015, o.a. 1432.2015, o.a. 1706.2015

Pin 713331.

7. Sri Amitava Chakraborty,  
Painter Grade - II  
(under training for Apprentice  
Mechanics Inter Stage, Mechanical)  
service through the Principal,  
Technical Training Centre,  
Chittaranjan Locomotive Works, P.O.-  
Chittaranjan, Dist. Burdwan, West  
Bengal, Pin 713331.

8. Sri Gautam Majumdar,  
Technician Grade-I  
(under training for Apprentice  
Mechanics, Inter Stage, Mechanical),  
service through the Principal,  
Technical Training Centre,  
Chittaranjan Locomotive Works,  
P.O. Chittaranjan,  
Dist. Burdwan, West Bengal,  
Pin 713331.

9. Sri Suren Ghosh,  
Technician Grade - II (Welder), I  
(under training for Apprentice  
Mechanics, Inter Stage, Mechanical),  
service through the Principal,  
Technical Training Centre,  
Chittaranjan Locomotive Works,  
P.O. Chittaranjan, Dist. Burdwan,  
West Bengal,  
Pin 713331.

Respondents

O.A. 244/2015  
M.A. 47/2015  
M.A. 445/2015  
M.A. 893/2017

1. Bartha Chatterjee,  
Son of Nimai Chandra Chatterjee,  
Aged 46 years,  
Residing at Street No. 64 ,  
Quarter No. 5B, Chittaranjan,  
District : Burdwan, Pin 713331,  
West Bengal.

2. Subhendu Roy,  
Son of Sachidananda Roy,  
Aged 50 years,  
Residing at Street No. 82 ,

*heli*

6 o.a. 1135.2011, o.a. 244.2015, m.a. 47.2015, m.a.  
445.2015, m.a. 893.2017, m.a. 152.15, m.a. 47.15, o.a.  
232.2016, o.a. 1365.2015, o.a. 1432.2015, o.a. 1706.2015

Quarter No. 8/A,  
Chittaranjan, District : Burdwan,  
Pin 713331, West Bengal.

3. Aloke Kumar Singh,  
Son of Sri N. K. Singh,  
Aged 44 years,  
Residing at Street No. 7D,  
Quarter No. 4C, Chittaranjan,  
District : Burdwan, Pin 713331,  
West Bengal.

4. Sailen Ghosh,  
Son of Sri Kinkar Prasad Ghosh,  
Aged 48 years,  
Residing at Street No. 66  
Quarter No. 25B, |  
Chittaranjan, District : Burdwan,  
Pin 713331, West Bengal

5. Gautam Majumdar,  
Son of Montosh Majumdar,  
Aged years, residing at Street No. 25,  
Quarter No. 14B, Chittaranjan,  
District - Burdwan, Pin 713331,  
West Bengal.

6. N.N. Talukdar,  
Son of Late N.C. Talukdar,  
Aged about 49 years,  
Residing at Street No. 15,  
Quarter No. 16 A,  
Chittaranjan,  
District - Burdwan,  
Pin - 713331,  
West Bengal.

7. T.K. Chatterjee,  
Son of Sri Sudhir Kr. Chatterjee,  
Aged about 49 years,  
Residing at St. No. 21 B,  
Qr. 6A, Chittaranjan,  
West Bengal,  
Pin - 713331.

8. H.L. Prasad,  
Son of Late D.N. Prasad,  
Aged about 42 years,

*h.l.*



7 o.a. 1135.2011, o.a. 244.2015, m.a. 47.2015, m.a.  
445.2015, m.a. 893.2017, m.a. 152.15, m.a. 47.15, o.a.  
232.2016, o.a. 1365.2015, o.a. 1432.2015, o.a. 1706.2015

Residing at St. No. 42 A,  
Qr. 52A, Chittaranjan,  
West Bengal,  
Pin - 713331.

9. A.K. Chowbey,  
Son of Late Nag Deo Chowbey,  
Aged about 49 years,  
Residing at St. No. 48,  
Qr. 7/C, Chittaranjan,  
West Bengal,  
Pin - 713331.

10. N. Dubey,  
Son of Late Sitaram Dubey,  
Aged about 48 years,  
Residing at St. No. 40,  
Qr. 17/B, Chittaranjan,  
West Bengal,  
Pin - 713331.

11. B.K. Choudhan,  
Son of Sri J. Choudhan,  
Aged about 49 years,  
Residing at St. No. 85,  
Qr. 7/3A,  
Chittaranjan,  
West Bengal,  
Pin - 713331.

12. Rajesh Kumar,  
Son of Sri Rameswar Prasad,  
Aged about 45 years,  
Residing at St. No. 33B,  
Qr. 1/A, Chittaranjan,  
West Bengal,  
Pin - 713331.

13. R.K. Jha,  
Son of Late Sukumar Jha,  
Aged about 45 years,  
Residing at St. No. 31,  
Qr. 35/B, Chittaranjan,  
West Bengal,  
Pin - 713331.

14. P.K. Tanti,  
Son of Sri Sitaram Tanti,

*hsh*

8 o.a. 1135.2011, o.a. 244.2015, m.a. 47.2015, m.a.  
445.2015, m.a. 893.2017, m.a. 152.15, m.a. 47.15, o.a.  
232.2016, o.a. 1365.2015, o.a. 1432.2015, o.a. 1706.2015

Aged about 44 years,  
Residing at St. No. 38A,  
Qr. 72/A, Chittaranjan,  
West Bengal,  
Pin - 713331.

15. R.K. Murmu,  
Son of Sri Chando Murmu,  
Aged about 47 years,  
Residing at St. No. 70,  
Qr. 35 A, Chittaranjan,  
West Bengal,  
Pin - 713331.

16. Sanjib Kr. Sharma,  
Son of Sri T. Sharma,  
Aged about 43 years,  
Residing at St. No. 30,  
Qr. 41/A,  
Chittaranjan,  
West Bengal,  
Pin - 713331.

17. Subhankar Bose,  
Son of Sri Nirmal Bose,  
Aged about 48 years,  
Residing at St. No. 64,  
Qr. 5/B, Chittaranjan,  
West Bengal,  
Pin - 713331.

18. Rajesh Kr. Sharma,  
Son of Sri S. Sharma,  
Aged about 48 years,  
Residing at St. No. 23,  
Qr. 37/B, Chittaranjan,  
West Bengal,  
Pin - 713331.

19. T.K. Ray,  
Son of Late S. Roy,  
Aged about 46 years,  
Residing at St. No. 82,  
Qr. 22A, Chittaranjan,  
West Bengal,  
Pin - 713331.

20. M. Kumar, *hsh*



9 o.a. 1135.2011, o.a. 244.2015, m.a. 47.2015, m.a.  
445.2015, m.a. 893.2017, m.a. 152.15, m.a. 47.15, o.a.  
232.2016, o.a. 1365.2015, o.a. 1432.2015, o.a. 1706.2015

Son of Late N. Kumar,  
Aged about 45 years,  
Residing at St. No. PA,  
Qr. 5A, Chittaranjan,  
West Bengal,  
Pin - 713331.

21. D.K. Sahu,  
Son of Late L.N. Sahu,  
Aged about 46 years,  
Residing at St. No. 34,  
Qr. 36A, Chittaranjan,  
West Bengal,  
Pin - 713331.

22. S. Ganguly,  
Son of Sri B.K. Ganguly,  
Aged about 48 years,  
Residing at St. No. 11A,  
Qr. 6B, Chittaranjan,  
West Bengal,  
Pin - 713331.

23. S. Azam,  
Son of Sri Mahetlav Azam,  
Aged about 44 years,  
Residing at St. No. 66,  
Qr. 27/B, Chittaranjan,  
West Bengal,  
Pin - 713331.

24. A. Chakraborty,  
Son of Sri Badal Chakraborty,  
Aged about 48 years,  
Residing at St. No. 41A,  
Qr. 11/A,  
Chittaranjan,  
West Bengal,  
Pin - 713331.

25. K.K. Das,  
Son of Sri D.L. Das,  
Aged about 45 years,  
Residing at Pipeline Kurmi Para,  
Mihijam,  
Jharkhand - 815354.

26. K.Rajak,

10 o.a. 1135.2011, o.a. 244.2015, m.a. 47.2015, m.a.  
445.2015, m.a. 893.2017, m.a. 152.15, m.a. 47.15, o.a.  
232.2016, o.a. 1365.2015, o.a. 1432.2015, o.a. 1706.2015

Son of Late D. Rajak,  
Aged about 48 years,  
Residing at St. No. 87,  
Qr. 48/B, Chittaranjan,  
West Bengal,  
Pin - 713331.

27. B.N. Das,  
Son of Late D.N. Das,  
Aged about 50 years,  
Residing at St. No. 35,  
Qr. 3/C, Chittaranjan,  
West Bengal,  
Pin - 713331.

28. T.K. Majhi,  
Son of Late S.W. Majhi,  
Aged about 50 years,  
Residing at Rupnarayanpur,  
Burdwan, 713364.

29. Samir Kr. Mondal,  
Son of Late S.C. Mondal,  
Aged about 46 years,  
Residing at St. No. 43,  
Qr. 10A,  
Chittaranjan,  
West Bengal,  
Pin - 713331.

All the applicants are working for the post of  
Junior Engineer (Mechanical) at different  
shops of Chittaranjan Locomotive Works,  
Chittaranjan.

- VERSUS -

1. Union of India,  
Through the General Manager,  
Chittaranjan Locomotive Works,  
Chittaranjan, Dist. Burdwan,  
West Bengal,  
Pin 713331.
2. The Chief Personnel Officer,  
Chittaranjan Locomotive Works,  
Chittaranjan, Dist. Burdwan,  
West Bengal, Pin 713331.

*hah*

11 o.a. 1135.2011, o.a. 244.2015, m.a. 47.2015, m.a.  
445.2015, m.a. 893.2017, m.a. 152.15, m.a. 47.15, o.a.  
232.2016, o.a. 1365.2015, o.a. 1432.2015, o.a. 1706.2015

3. The Chief Mechanical Engineer,  
Chittaranjan Locomotive Works,  
Chittaranjan, Dist. Burdwan,  
West Bengal,  
Pin 713331.

**MA. 152/15 WITH M.A.47/2015 (OA 244/15)**

1. Nand Lal Shaw,  
Son of Late Sukhan Shaw,  
Aged about 46 years,  
Residing at Street No. 20A,  
Quarter No. 9C, P.O. Chittaranjan,  
District, Burdwan, Pin 713331.

Applicant in M.A. 152/15

1. N. N. Talukdar,  
Son of Late N. C. Talukdar,  
Aged about 49 years,  
Residing at Street No. 15, Quarter No. 16A,  
Chittaranjan District,  
Burdwan,  
Pin 713331,  
West Bengal

2. T. K. Chatterjee,  
Son of Sudhir K. Chatterjee,  
Aged about 49 years,  
Residing at St. No. 21 B,  
Qr. 6A, Chittaranjan,  
West Bengal,  
Pin 713331.

3. H.L. Prasad,  
Son of Late D.N. Prasad,  
Aged about 42 years,  
Residing at St. NO. 42A,  
Qr. 52A, Chittaranjan,  
West Bengal,  
Pin 713331.

4. A. K. Chowbey,  
Son of Late Nag Deo Chowbey,  
Aged about 49 years,  
Residing at St. No. 48,  
Qr.7/c, Chittaranjan,  
West Bengal, Pin 713331.

5. N. Dubey,  
Son of Late Sitaram Dubey,

*hsh*

12 o.a. 1135.2011, o.a. 244.2015, m.a. 47.2015, m.a.  
445.2015, m.a. 893.2017, m.a. 152.15, m.a. 47.15, o.a.  
232.2016, o.a. 1365.2015, o.a. 1432.2015, o.a. 1706.2015

Aged about 48 years,  
Residing at St. No. 48,  
Qr. 17/B, Chittaranjan,  
West Bengal,  
Pin 713331.

6. L.K Chouhan,  
Son of Sri J. Chouhan,  
Aged about 49 years,  
Residing at St. No. 85,  
Qr. 7/3A, Chittaranjan,  
West Bengal,  
Pin 713331.

7. Rajesh Kumar,  
Son of Sri Rameshwar Prasad,  
Aged about 45 years,  
Residing at St. No. 33B Qr. 1/A,  
Chittaranjan,  
West Bengal, Pin 713331.

8. R.K. Jha,  
Son of Late Sukumar Jha,  
Aged about 45 years,  
Residing at St. No. 31, Qr. 35/B,  
Chittaranjan, West Bengal,  
Pin 713331.

9. P.K. Tanti,  
Son of Sri Sitaram Tanti,  
Aged about 44 years,  
Residing at St. No. 38A, Qr. 72/A,  
Chittaranjan, West Bengal,  
Pin 713331.

10. R. K. Murmu,  
Son of Sri Chando Murmu,  
Aged about 47 years,  
Residing at St. No. 70, Qr. 35A,  
Chittaranjan,  
West Bengal,  
Pin 713331.

11. Sanjib Kr. Sharma,  
Son of Sri T. Sharma,  
Aged about 43 years,  
Residing at St. No. 30,  
Qr. 41/A, Chittaranjan,  
West Bengal,  
Pin 713331.

12. Subhankar Bose,  
Son of Sri Nirmal Bose,  
Aged about 48 years,

*Wm*

13 o.a. 1135.2011, o.a. 244.2015, m.a. 47.2015, m.a.  
445.2015, m.a. 893.2017, m.a. 152.15, m.a. 47.15, o.a.  
232.2016, o.a. 1365.2015, o.a. 1432.2015, o.a. 1706.2015

Residing at St. No. 64, Qr.5/B,  
Chittaranjan, West Bengal,  
Pin 713331.

13. Rajesh Kr. Sharma,  
Son of Sri S. Sharma,  
Aged about 48 years,  
Residing at St. No. 23,  
Qr. 37/B, Chittaranjan,  
West Bengal,  
Pin 713331.

14. T. K. Ray,  
Son of Late S. Roy,  
Aged about 46 years,  
Residing at St. No. 82,  
Qr. 22A, Chittaranjan,  
West Bengal,  
Pin 713331.

15. M. Kumar,  
Son of Late N. Kumar,  
Aged about 45 years,  
Residing at St. No. P.A,  
Qr. 35A, Chittaranjan,  
West Bengal,  
Pin 713331.

16. D.K. Saha,  
Son of Late D.N. Saha,  
Aged about 46 years,  
Residing at St. No. 34,  
Qr. 36A, Chittaranjan,  
West Bengal,  
Pin 713331.

17. S. Ganguly,  
Son of Sri B. K. Ganguly,  
Aged about 48 years,  
Residing at St. No. 11A,  
Qr. 6B, Chittaranjan,  
West Bengal,  
Pin 713331.

18. S. Azam,  
Son of Sri Mahettav Azam,  
Aged about 44 years,  
Residing at St. No. 66,  
Qr. 27/B, Chittaranjan,  
West Bengal,  
Pin 713331.

19. A. Chakraborty,  
Son of Sri Badal Chakraborty,  
Aged about 48 years,

*hsk*

14 o.a. 1135.2011, o.a. 244.2015, m.a. 47.2015, m.a.  
445.2015, m.a. 893.2017, m.a. 152.15, m.a. 47.15, o.a.  
232.2016, o.a. 1365.2015, o.a. 1432.2015, o.a. 1706.2015

Residing at St. No. 41A,  
Qr. 11/A, Chittaranjan,  
West Bengal,  
Pin 713331.

20. K. K. Das, son of Sri D.L Das,  
Aged about 45 years,  
Residing at Pipeline Kurmi Para, Mihujam,  
Jharkhand -815354.

21. K. Rajak, son of Late D. Rajak,  
Aged about 48 years,  
Residing at St. No. 87,  
Qr. 48/B, Chittaranjan, West Bengal,  
Pin 713331.

22. B.N. Das,  
Son of Late D.N. Das,  
Aged about 50 years,  
Residing at St. No. 35,  
Qr. 37C, Chittaranjan,  
West Bengal, Pin 713331.

23. T. K. Maji,  
Son of Late S.W. Maji,  
Aged about 50 years,  
Residing at Rupnarayanpur,  
Burdwan - 713364.

24. Samir K. Mondal,  
Son of Late S. C. Mondal,  
Aged about 46 years,  
Residing at St. No. 43,  
Qr. 10A, Chittaranjan, West Bengal,  
Pin 713331.

Applicants in M.A. 47/15

Versus

1. Union of India,  
Service through the General Manager,  
Chittaranjan Locomotive Works (CLW),  
Chittaranjan, District - Burdwan, Pin  
713331.

2. Chief Personnel Officer,  
Chittaranjan Locomotive Works (CLW),  
Chittaranjan, District - Burdwan,  
Pin 713331.

3. Chief Mechanical Engineer,  
Chittaranjan Locomotive Works (CLW),  
Chittaranjan, District - Burdwan, Pin  
713331.

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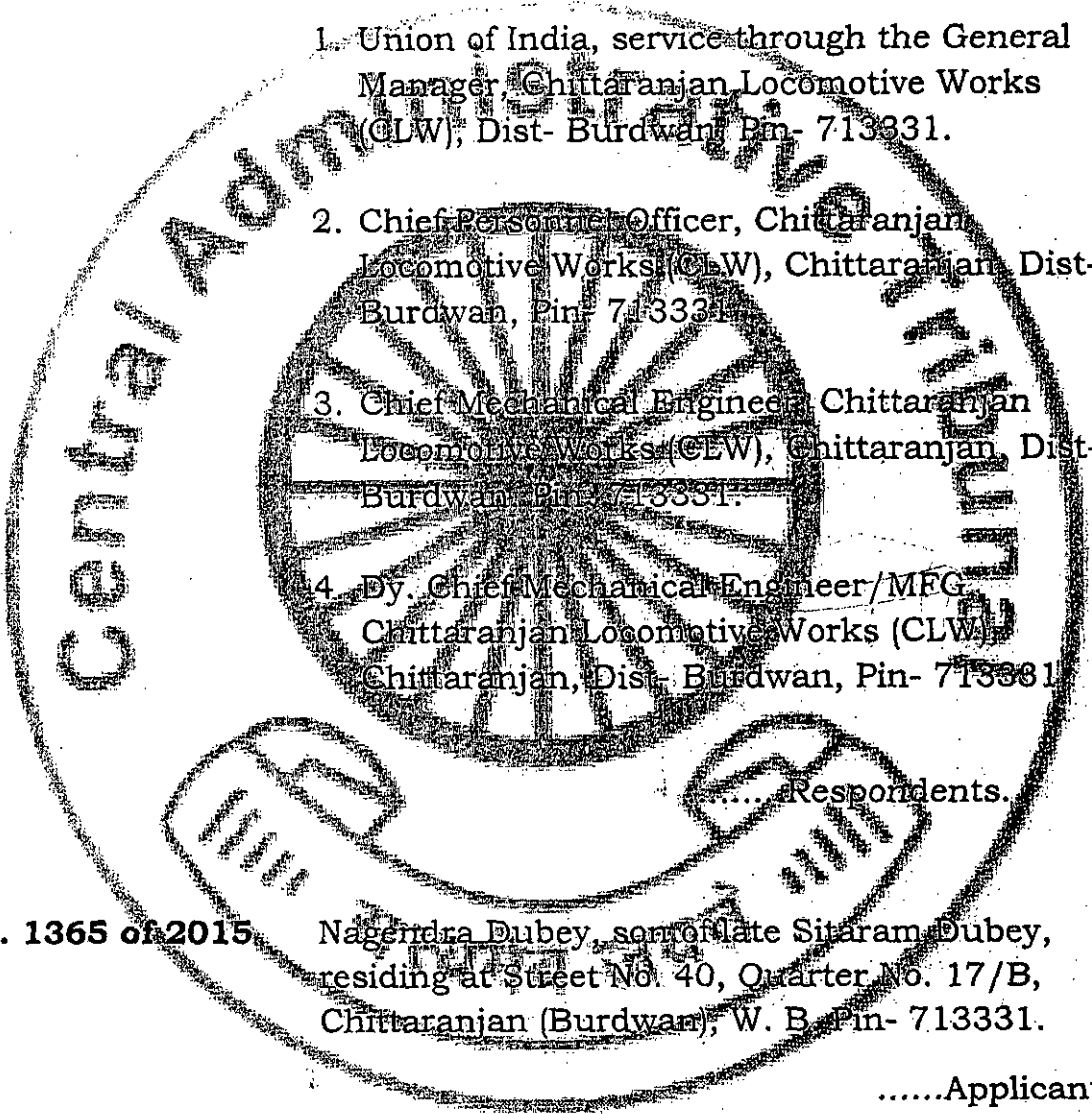
15 o.a. 1135.2011, o.a. 244.2015, m.a. 47.2015, m.a.  
445.2015, m.a. 893.2017, m.a. 152.15, m.a. 47.15, o.a.  
232.2016, o.a. 1365.2015, o.a. 1432.2015, o.a. 1706.2015

--Respondents.

**OA. 232 of 16** Sanjay Ganguly, son of Sri B. K. Ganguly,  
aged about 49 years, by profession service, residing at  
Quarters No. 6/BB, P.O. +P.S.- at Chittaranjan,  
Burdwan, W.B. Pin- 713331.

.....Applicant.

-versus-

- 
1. Union of India, service through the General  
Manager, Chittaranjan Locomotive Works  
(CLW), Dist- Burdwan, Pin- 713331.
  2. Chief Personnel Officer, Chittaranjan  
Locomotive Works (CLW), Chittaranjan, Dist-  
Burdwan, Pin- 713331.
  3. Chief Mechanical Engineer, Chittaranjan  
Locomotive Works (CLW), Chittaranjan, Dist-  
Burdwan, Pin- 713331.
  4. Dy. Chief Mechanical Engineer/MFG,  
Chittaranjan Locomotive Works (CLW),  
Chittaranjan, Dist- Burdwan, Pin- 713331.

..... Respondents.

**OA. 1365 of 2015** Nagendra Dubey, son of late Sitaram Dubey,  
residing at Street No. 40, Quarter No. 17/B,  
Chittaranjan (Burdwan), W. B. Pin- 713331.

.....Applicant.

-versus-

1. Union of India, service through the General  
Manager, Chittaranjan Locomotive Works  
(CLW), Dist- Burdwan, Pin- 713331.
  2. Chief Personnel Officer, Chittaranjan  
Locomotive Works (CLW), Chittaranjan, Dist-  
Burdwan, Pin- 713331.
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16 o.a. 1135.2011, o.a. 244.2015, m.a. 47.2015, m.a.  
445.2015, m.a. 893.2017, m.a. 152.15, m.a. 47.15, o.a.  
232.2016, o.a. 1365.2015, o.a. 1432.2015, o.a. 1706.2015

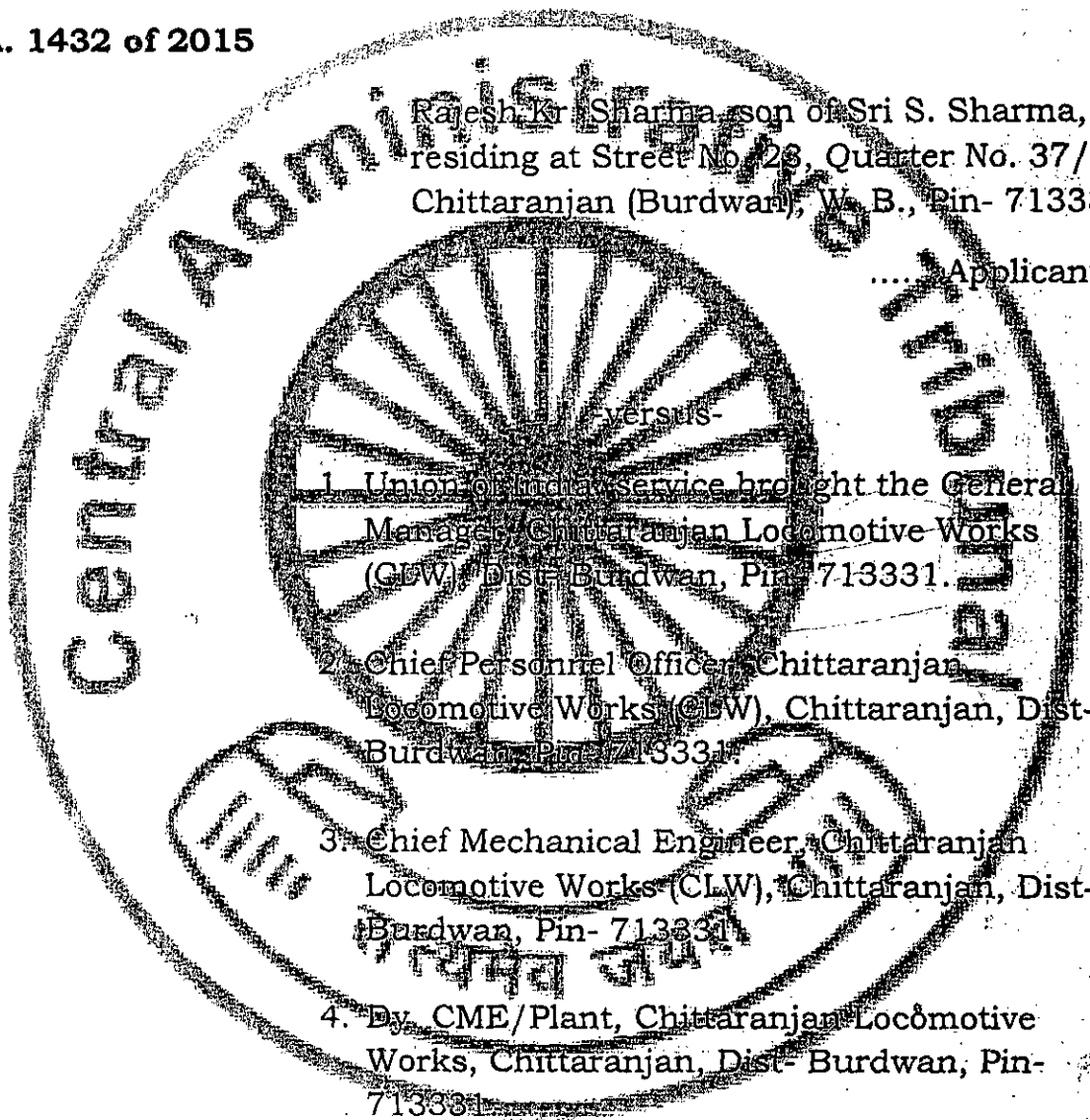
3. Chief Mechanical Engineer, Chittaranjan Locomotive Works (CLW), Chittaranjan, Dist- Burdwan, Pin- 713331.
4. Dy. CME(Aroj/Con/SI & Disciplinary Authorities, Chittaranjan Locomotive Works, Chittaranjan, Dist- Burdwan, Pin- 713331.

.....Respondents.

**OA. 1432 of 2015**

Rajesh Kr. Sharma, son of Sri S. Sharma, residing at Street No. 23, Quarter No. 37/B, Chittaranjan (Burdwan), W. B., Pin- 713331.

..... Applicant.



.....Respondents.

**OA. 1706 of 2015**

Aloke Kumar Singh, son of Sri N. K. Singh, aged about 44 years, residing at Street No. 4C, Quarter No. 7D, Chittaranjan, District- Burdwan, Pin- 713331, West Bengal.

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17 o.a. 1135.2011, o.a. 244.2015, m.a. 47.2015, m.a.  
445.2015, m.a. 893.2017, m.a. 152.15, m.a. 47.15, o.a.  
232.2016, o.a. 1365.2015, o.a. 1432.2015, o.a. 1706.2015

.....Applicant.

-versus-

1. Union of India, service through the  
General Manager, Chittaranjan  
Locomotive Works (CLW), Dist- Burdwan,  
Pin- 713331.

2. Chief Personnel Officer, Chittaranjan  
Locomotive Works (CLW), Chittaranjan,  
Dist- Burdwan, Pin- 713331.

3. Chief Mechanical Engineer, Chittaranjan  
Locomotive Works (CLW), Chittaranjan,  
Dist- Burdwan, Pin- 713331.

4. Dy. Chief Mechanical Engineer/Electric  
Loco Fabrication (ELF), Chittaranjan  
Locomotive Works (CLW), Chittaranjan,  
Dist- Burdwan, Pin- 713331.

.....Respondents.

For the Applicants

Mr. P.C. Das, Counsel

Mr. B. Chatterjee, Counsel  
(O.A. No. 244 of 2015)

Mr. S.K. Dutta, Counsel  
(O.A. 1135 of 2011)

Mr. B. Chatterjee, Counsel  
(O.A. 232/2016)

Mr. U. Roy, Counsel

(O.A. 1365/2015, O.A. 1432/2015,  
O.A. 1706/2015 and O.A. 232/2016)

For the Respondents :

Mr. P. Bajpayee, Counsel

Mr. P.C. Das, Counsel

(Pvt. Respdt. In O.A. No. 1135/2011)

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18 o.a. 1135.2011, o.a. 244.2015, m.a. 47.2015, m.a.  
445.2015, m.a. 893.2017, m.a. 152.15, m.a. 47.15, o.a.  
232.2016, o.a. 1365.2015, o.a. 1432.2015, o.a. 1706.2015

## ORDER

Per Dr. Nandita Chatterjee, Administrative Member:

The primary cause of dispute in these Original Applications revolves round the notification issued by the respondent authorities dated 1.9.2008 for selection to the post of Apprentice Mechanics Inter Stage (Mechanical), empanelment of purportedly successful candidates consequent thereto, cancellation of the said notification and declaration of a denovo selection process thereon.

2. The applicants in **O.A. No. 244 of 2015 (Partho Chatterjee & ors. v. Union of India & ors.)** are those candidates, who had been declared successful in the selection process consequent to notification dated 1.9.2008. They have joined together to challenge the memorandum dated 10.2.2015 that cancelled the notification dated 1.9.2008, and, which had declared a further de novo selection process to the post of Apprentice Mechanics Inter Stage (Mechanical).

The applicants in **O.A. No. 1135 of 2011 (Subhas Chatterjee & ors. v. Union of India & ors.)** had jointly approached this Tribunal to set aside the selection process consequent to notification dated 1.9.2008 as well as the panel which was published pursuant to such selection. These eleven applicants also demanded a fresh selection process, alleging several irregularities in the conduct of the written examination in the selection process that followed notification dated 1.9.2008.

The applicants in **O.A. No. 1365 of 2015 (Nagendra Dubey v. Union of India & ors.)**, **O.A. No. 1432 of 2015 (Rajesh Kr. Sharma v. Union of India & ors.)** and **O.A. No. 1706 of 2015 (Aloke Kr. Singh v. Union of India & ors.)** and **O.A. No. 232 of 2016 (Sanjoy Ganguly v. Union of India & ors.)** are purportedly successful candidates against

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whom the respondent authorities are contemplating disciplinary action alleging their direct involvement in irregularities in the selection process. Each of these applicants have approached this Tribunal challenging the initiation of such disciplinary proceedings.

3. As the primary cause of action in all these above matters are related to different facets of the selection process pursuant to notification dated 1.9.2008 culminating in its cancellation, all six O.A.s are taken up to be disposed of by a common order.

4. The primary issues to be decided upon in this adjudication are:

- (i) whether the selection process held pursuant to notification dated 1.9.2008 is liable to be cancelled on account of alleged irregularities and
- (ii) whether the applicants in O.A. No. 244/2015 have an indefeasible right to the post of Apprentice Mechanics, Inter Stage (Mechanical).

5.1. The primary allegations against the selection process, as raised by the applicants in O.A. No. 1135 of 2011 are as follows:-

- (i) That, several irregularities were detected in the written test, evaluation and selection of Apprentice Mechanics Inter Stage (Mechanical).
- (ii) As per Railway Board's Circular dated 30.8.2006 incorporated in the Indian Railway Establishment Manual Vol. I, objective type questions should be set for about 50% (in the range of 45% to 55%) of the total marks for the written test held as part of the selection for promotion to

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the post classified as "Selection" but in the aforesaid question paper, the objective type questions were not set as per the said circular of the Railway Board and, as such, the structure of the written test was violative of Rules.

(iii) To illustrate the arbitrariness and illegality in evaluation, the applicant state that they had obtained the evaluated answer sheets of some of the applicants upon access to RTI, and, on receipt of such answer scripts, it transpired that

The evaluation against question No. 5 (i) of Part A on the response "False" of Sri Subhas Chatterjee i.e. applicant No. 15 (bearing Roll No. 144) has been marked as incorrect which surprisingly, in case of Ashok Kumar (Roll No. was 134) who answered the said question No. 5 (i) as "True" was also marked as incorrect clearly pointing to ambivalent evaluation.

Again, Sri Debasish Sarkar, applicant No. 2, had correctly answered the nine questions to "fill in the blanks" but was awarded four marks instead of four and half marks that he was otherwise entitled to. Upon comparison of answers of Sri Debasish Sarkar, applicant No. 2 and Sri Sanjay Kumar, applicant No. 10, it is found that both have answered the questions by drawing a simple sketch. While Shri Sanjay Kumar got four and half marks including one mark for that simple sketch, Sri Debasish Sarkar got three marks. As no marks were awarded for the sketch of Sri Debasish Sarkar, he was kept out of the panel for obtaining 54.5 marks, whereas had he been awarded half marks for Question No. 6 and one mark for question No. 3 (simple sketch), the said Sri Debasish Sarkar would have secured 56 marks in aggregate and would have been included in the panel.

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Again, both answers to questions 2(a) and 2(b) of Abid Ahmed, applicant No. 5, were marked as incorrect by the evaluator arbitrarily and with an ulterior motive to oust him from the zone of consideration when he deserved full marks for correct replies to such mathematical questions.

In the case of Shri D.K. Mondal, applicant No. 3, four and half marks were awarded in an arbitrary and ill motivated fashion.

(iv) That, with respect to service records, no disclosure was made communicating the details of service records of the applicants, consequent to which their scores on account of service records have been severely downgraded, depriving the applicants of a fair chance of selection. The applicants claim that one Sri T.K. Chatterjee, however, obtained 30 marks in the written test and 30 marks in assessment of service records whereby he was awarded 60 marks with a view to his empanelment. Similarly, Sri K.K. Batabyal and Sri R.K. Jha got 30.5 in written examination but by awarding 30 marks in assessment of service records, they were awarded 60.5 in aggregate reflecting favoritism to selected candidates.

(v) That, the representations of the applicants dated 18.7.2011 were not considered or heeded to by the respondent authorities, who, on the other hand, empanelled other candidates and send them for training, depriving the applicants of a just and merit based selection process.

5.2. The official respondents No. 1 to 5 have denied the allegations of the applicants in O.A. No. 1135 of 2011 in their reply dated 9.7.2012, particularly, to state as follows:-

(i) That, the question paper was set as per rules and that the selection procedure for the impugned promotion for JE was followed as per

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22 o.a. 1135.2011, o.a. 244.2015, m.a. 47.2015, m.a.  
445.2015, m.a. 893.2017, m.a. 152.15, m.a. 47.15, o.a.  
232.2016, o.a. 1365.2015, o.a. 1432.2015, o.a. 1706.2015

'General Selection' procedure as distinguished from procedure for 'Selection post'.

(ii) Further, vide memo dated 9.4.2012, the respondent authorities have also clarified their decision in the individual disputes raised by the applicants in O.A. No. 1135 of 2011 with regard to evaluation in the written test (Annexure R-1 to the reply).

5.3. The private respondents, as impleaded in the O.A. No. 1135 of 2011,

(i) have claimed that the applicants have no right to contest as per RBE No. 29 of 2009 (Annexure R-2 of their reply)

and;

(ii) have factually disputed the individual contentions of applicants in O.A. 1135 of 2011.

(iii) the private respondents have also questioned the right of the applicants in O.A. No. 1135 of 2011 to seek a re-evaluation, a relief that is beyond the purview of Courts or Tribunals in judicial review.

5.4. With the issue of cancellation notice dated 10.2.2015 and consequent declaration of de novo selection process to the post of Apprentice Mechanics Inter Stage (Mechanical), however, O.A. No. 1135 of 2011 largely becomes infructuous, as because, with such cancellation and declaration of de novo selection process, nothing further remains to be adjudicated in this O.A. consequent to such actions of the respondent authorities.

O.A. No. 1135 of 2011 is, accordingly, disposed of as infructuous.

6.1. In O.A. No. 244 of 2015, the original applicants and added applicants have defended the selection process and have challenged the cancellation memo dated 10.2.2015 that had directed a de novo selection process.

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The primary arguments of the applicants in O.A. No. 244 of 2015, are as follows:-

(i) That, the syllabus for the said competitive examination was circulated in Paragraph 4 of the notification dated 1.9.2008.

(ii) That, pursuant to issuance of memorandum dated 1.9.2008, the selected candidates had successfully completed a 52 weeks training programme, consequent to which the applicants had been finally absorbed as Junior Engineer (Mechanical) from Trainee Junior Engineer (Mechanical) and posted in different shops w.e.f. 19.4.2012 (forenoon) in Pay Band Rs. 9300-34800/- with grade pay of Rs. 4200/-.

(iii) The cancellation of the said selection process had adversely affected their rights to the post of JE (Mech), which had been taken away by an arbitrary action of the respondent authority. The applicants in O.A. No. 244 of 2015 claim that they had accrued their rights through that selection process and further proceeded up to the stage of appointment as well as regular service for almost for a period of four years. Hence, any action taken by the respondent authority would adversely affect their substantial rights violating the principles of natural justice and that no opportunity of defence and/or any other contention was allowed to be raised or any opportunity of ventilating their grievance was given to the applicants who were arbitrarily precluded from discharging their duties.

(iv) The applicants were not aware of any alleged recommendations of the Vigilance Department.

(v) That, the respondents, while dealing with the contentions of the applicant in O.A. No. 1135 of 2011, had denied any irregularities in the selection process, only to contradict themselves while issuing the cancellation notice.

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6.2. The applicants in O.A. No. 244 of 2015 have cited the following judicial pronouncements in support of their claim:-

- (i) *Union of India & ors. v. Rajesh P.U. Puthuvalnikathu & another* 2003 SCC (L&S) 1048
- (ii) *East Coast Railway & anr. v. Mahadev Appa Rao & ors.* (2010) 7 SCC 678.
- (iii) O.A. No. 528 of 2012 (*Aamod Kumar v. Union of India & ors.*)
- (iv) O.A. No. 350/1147/2018 (*Dipak Bhattacharya v. Union of India & ors.*)
- (v) O.A. No. 1928 of 2010 (*Rakhi Hati v. Union of India & ors.*)
- (vi) *Suzuki Parasrampur Suitings Pvt. Ltd. v. The Official Liquidator of Mahendra Petrochemicals Ltd. (In Liquidation) and ors.* 2019 (1) Supreme 404.
- (vii) *Ashok Kumar & anr. v. State of Bihar & ors.* 2016 (7) Supreme 408.

6.3. The official respondents have contradicted the claim of the applicants in O.A. No. 244 of 2015 by contending as follows:

- (i) That, owing to a complaint by a candidate who failed to be empanelled, the Vigilance Department investigated the entire selection process, resulting in the following findings:-

"During investigation of a complaint on irregularities in the selection process, it has been revealed that the above selection process has got vitiated from the stage of written examination due to irregularities arising from the leakage of question papers/model answers, adopting of unfair means by candidates during written examination, manipulation of answer sheets during evaluation, lack of uniformity in awarding of marks, unreasonable/illogical distribution of marks and violation of extent guidelines in awarding of marks."

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Accordingly, the respondent authorities, having been convinced of rampant irregularities, cancelled the selection process and notified a fresh selection.

7.1. In abidance to the directions of this Tribunal, the Ld. Counsel for the respondents would furnish before the Tribunal the following:-

(i) Cognizance taken by the Railway Board of allegations made on irregularities of the selection process, duplicate selection file of CPO of CLW bearing No. GMA/TTC/3/1/Pt. XIII (Mech.)(Duplicate) on the subject matter, 'Selection of Inter-Stage Apprentice Mechanics (Mech.) notification dated 19.2008' as well as the original vigilance report.

The respondent authorities would also cite the ratio in **Chairman, All India Recruitment Board & anr. v. K. Shyam Kumar & anr. (2010) 6 SCC 614** in support.

#### FINDINGS

8. Upon a detailed perusal of the documents furnished by the respondents, the following is inferred:-

(i) Complaints were made by certain applicants in O.A. No. 1315 of 2011 alleging irregularities in the selection process, particularly, in conduct of written examination and evaluation of the same. The complaint was duly acknowledged by the Chief Vigilance Commission's Office at New Delhi, who had thereafter forwarded the said complaint to the Advisor (Vigilance) of the Railway Board at New Delhi.

(ii) As directed by the Railway Board, the Deputy CVO (CLW) had filed his report to the Secretary (Vigilance), Railway Board after

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26 o.a. 1135.2011, o.a. 244.2015, m.a. 47.2015, m.a.  
445.2015, m.a. 893.2017, m.a. 152.15, m.a. 47.15, o.a.  
232.2016, o.a. 1365.2015, o.a. 1432.2015, o.a. 1706.2015

enclosing the following in obtaining the advice of the Railway Board:-

- (i) Duplicate case file bearing No. 12/VO/RA/CLW/CON/03 containing investigation report and vigilance comments with legible copies of relevant documents based on which the report has been prepared.
- (ii) Brief summary of the case.
- (iii) Tabular statement.
- (iv) Index of documents.
- (v) Checklist.
- (vi) Softcopy containing investigation report, vigilance comments and CVO's comments/recommendations.
- (iii) The vigilance investigation report of CLW, had concluded as follows:-

"8.3. The selection process has suffered from serious irregularities arising from leakage of question paper/model answers, adoption of unfair means by the candidates during the written examination, fraudulent and malafide activities by some candidates in connivance with the evaluator, lack of uniformity in award of marks, unreasonable/illogical distribution of marks by the evaluator, violation of Board's guideline in award of marks, long delay in declaration of the written test result, missing of the selection file and missing of answersheets of 07 borderline candidates. Selection, therefore, is not considered credible and the resultant panel lacks sanctity/integrity. The same is recommended to be cancelled. The selection process may be conducted de novo from the stage of written examination with nomination of new members in selection committee."

The competent authority in CLW accepted such recommendations and cancelled the selection process. The notification of cancellation read as quoted below:-

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27 o.a. 1135.2011, o.a. 244.2015, m.a. 47.2015, m.a.  
445.2015, m.a. 893.2017, m.a. 152.15, m.a. 47.15, o.a.  
232.2016, o.a. 1365.2015, o.a. 1432.2015, o.a. 1706.2015

**"CLW/CHITTARANJAN"**

**(CONFIDENTIAL)**

No. GMA/TTC/3/1/Pt. XIII (Mech.)(Duplicate)

Date:10.2.2015

**MEMORANDUM**

**Sub: Cancellation of Panel of Inter-Stage Apprentice Mechanics (Mech.).**

Ref: (i) Notification No. GMA/TTC/3/1Pt. XIII (Mech) dated 1.9.2008.  
(ii) Panel No. GMA/TTC/3/1 Pt. XIII (Mech) dated 31.3.2011 &  
No. GMA/TTC/3/1 Pt. XIII (Mech)/Ad-hoc dated 31.3.2011.

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A notice was issued for the empanelment of 32 (thirty two) candidates for the post of inter-Stage Apprentice Mechanics (Mech), vide Notification No. GMA/TTC/3/1Pt. XIII (Mech) dated 1.9.2008.

After finalization of the selection process, a panel was published with the approval of CME for 27 (twenty seven) candidates, vide No. GMA/TTC/3/1 Pt. XIII (Mech) dated 31.3.2011 & 05 (five) candidates were placed in the panel on Ad-hoc basis, as "Best Among the Failed Candidates", vide No. GMA/TTC/3/1 Pt. XIII (Mech)/Adhoc dated 31.3.2011.

The above selection of 32 (thirty two) candidates was investigated by the vigilance Department, wherein serious irregularities were noticed in the selection process, as such vigilance Department recommended that the entire panel may be cancelled and the selection process be conducted afresh from the stage of written examination with the nomination of new Selection Committee.

The above said panel dated 31.3.2011 was published with the approval of GME. Therefore, in terms of Para. 24(1) of IREM, Vol-I, 2009 edition, if it is found subsequent that there were procedural irregularities or other defects and it is considered necessary to cancel or amend such a panel, this should be done after obtaining the approval of the authority next higher than the one that approved the panel.

Accordingly, the subject case was considered and the panel of 32 (thirty two) candidates published, vide ref: (ii) above has been cancelled by GM and ordered to start the selection process de-novo from the stage of Written Examination, as per extant rules.

Further action may be taken accordingly in accordance with the extant provision of rules.

(A.K. Sinha)  
Asstt. Personnel Officer(G)  
For Chief Personnel Officer"

(iv) Upon accepting the report of Vigilance, the CVC recommended major penalty proceedings against 12 Junior Engineers as well as the Members of the selection committee, namely, Shri Bharat Bhusan, the then WM/Manufacturing I, the then question setter, Shri K.K. Sharma, the then PE/SF, who was the evaluator, as well as against

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Shri D.K. Maity, the then SPO (A) since superannuated. Shri S.N. Chaubey, SPO (PC), who functioned as the Member in such selection committee was, however, replaced by one Shri S. Biswas, SPO (RP) as Member prior to finalization of the results.

9. The applicants in O.A. No. 244 of 2015 have repeatedly alleged that the selection file in its original form was missing and have also produced a copy of search notice dated 26.8.2013 which states that the file bearing No. GMA/TTC(3/1 Pt. XIII (Mech.) containing the relevant papers regarding notification of selection of Apprentice Mechanics in Stage (Mech.) dated 1.9.2008 has not been traced out since November, 2011. The respondent's Counsel, however, produces before us the said file in duplicate wherein all notings are found to be in original. By way of explanation, Ld. Counsel for the respondents clarifies that at the outset, considering the importance of selection process, the files have been retained in duplicate/triplicate with the respondent authorities.

While perusing the said file as well as the original proceedings of the said selection process, it is deciphered that:

(a) Although the matter was of utmost importance, the CME of CLW sat on the Vigilance Report for five months, and, thereafter released the file on the day of his superannuation, recommending reevaluation of the answer scripts of the 32 empanelled candidates.

(b) The Chief Vigilance Officer of the CLW, however, was categorical in his observations when he had stated as follows:-

"(2) The question paper in this case contained objective questions of 50% marks and numerical of 20% marks. If one is aware of such question beforehand through leakage of q. paper, he/she can score well without leaving any evidence. Therefore, with leakage of q. paper having been proved, it is not possible to find who is a bonafide select candidate by recheck of answer sheets. Moreover there are no extant rules for revaluation of answer scripts in a selection."

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Having observed as above, the Chief Vigilance Officer recommended that, on account of serious irregularities as indicated in the Vigilance Advice, cancellation of the panel would be the only recourse without prejudice to the pendency of the O.A. No. 1135 of 2011. Ultimately, the selection process was cancelled by the appropriate authority, Respondent No. 1 in O.A. No. 1135 of 2011 and O.A. No. 244 of 2015, namely, the General Manager of CLW.

10. While adjudicating **O.A. No. 1928 of 2010 and 19 similar other O.A.s (supra)** (relied upon by applicants in O.A. No. 244 of 2015), this Tribunal had categorized malpractice as follows:-

"13(a). The various stages at which malpractices can occur are as under:-

- (a) Leakage of Question Paper
- (b) Leakage of key
- (c) Malpractices in the conduct of examination, namely (i) impersonation (ii) mass scale copying (iii) adopting of unfair means for example (a) taking out of question papers, rearranging answers, supplying chits or (b) somebody who has the answers supplying slips/chits.
- (d) The evaluators being approached
- (e) Manipulation of merit list
- (c) Another crucial question is as to whether the act of leakage was an isolated action or many persons were acting in unison."

In the instant case, the vigilance of CLW has concluded that the selection process suffers from the following serious irregularities:-

- (i) Leakage of question papers;
  - (ii) Adoption of unfair means by candidates during written examination.
  - (iii) Fraudulent and mala fide activities by some candidates in connivance with the evaluator;
  - (iv) Lack of uniformity in awarding of marks;
  - (v) Unreasonable /illogical distribution of marks by the evaluator;
  - (vi) Violation of Board's guidelines in the award of marks;
  - (vii) Long delay in declaration of written test results;
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30 o.a. 1135.2011, o.a. 244.2015, m.a. 47.2015, m.a.  
445.2015, m.a. 893.2017, m.a. 152.15, m.a. 47.15, o.a.  
232.2016, o.a. 1365.2015, o.a. 1432.2015, o.a. 1706.2015

(viii) Absence of the original copy of the selection file and certain missing answer scripts.

Each of these irregularities, would, hence, qualify as the malpractice in terms of observation of this Tribunal in **O.A. No. 1928 of 2010 and 19 others (supra)**.

11. The applicants in O.A. No. 244 of 2015 have strongly urged citing the ratio in **Suzuki Parasrampuriah Sultings Pvt. Ltd. (supra)** that the respondents are debarred from taking contradictory positions in as much as they had claimed that there were no irregularities while responding to the claims made in O.A. No. 1135 of 2011 but thereafter cancelled the said selection process on 10.2.2015 on grounds of several irregularities in complete contravention of their earlier stated position. It is noted herein that the reply to O.A. No. 1135 of 2011 was filed in July, 2012 but the Vigilance Report was finalized in December, 2013 culminating in cancellation of the selection. The irregularities came to the notice of the competent authority upon the findings of the Vigilance report, an action consequent to filing of the reply to O.A. 1135 of 2011. Where the respondent authorities in CBW have defaulted is in their failure to file a supplementary reply disclosing their subsequent actions and decisions that could have led to an earlier disposal of O.A. 1135 of 2011 but for the pendency of O.A. 244 of 2015.

12. The applicants have relied on a number of judicial pronouncements. The applicability of which of these, in the instant matter is examined as per seriatim.

(i) The ratio in **Rajesh P.U. Puthuvalnikathu & another (supra)**, that refers to segregation of non tainted candidates, is not applicable as applicants in O.A. No. 1135 of 2011 would allege and the respondents in

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O.A. No. 224 of 2015 would admit widespread malpractice in the selection process.

(ii) The ratio in **Mahadev Appa Rao & ors. (supra)**, questions respondents' decisions on the grounds of non application of mind. Upon a perusal of the selection file, the proceedings, as well as the Vigilance Report, however, we are of the considered view that the respondent authorities consciously deliberated into the issues involved prior to coming to a conclusion and cannot be held to be guilty of non application of mind.

(iii) In **Aamod Kumar (supra)**, this Tribunal had restrained itself from directing any re-evaluation as being beyond the purview of judicial review. In this O.A. also, the Tribunal would not take up on itself any task of directing re-evaluation as such an exercise is entirely the domain of the respondent authorities to be undertaken if permitted by Rules.

(iv) In **Dipak Bhattacharya (supra)** the direction was on conclusion of the process after segregation of a certain category of candidates. The instant matter is that of a completed selection process vis-à-vis cancellation of the same; hence, the ratio in **Dipak Bhattacharya (supra)** is clearly distinguishable from the instant matter.

(v) In **Rakhi Hati & 19 other similar O.A.s (supra)**, this Tribunal was to adjudicate on a situation where reportedly only 57 candidates were implicated and the others were not alleged of any irregularities. In the instant matter, the vigilance report clearly indicates leakage of question papers. It is difficult to segregate the beneficiaries of such leakage of question papers from others as any of the candidates could have been privy to such discriminatory and prejudicial advance disclosure. Leakage of question papers, in general, vitiates the entire selection process as it severely affects the interests of the meritorious

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candidates attempting to appear honestly in a selection process on merit as against others, who gain undue advantage as a result such advanced disclosure.

(vi) It is noteworthy that the CVO of CLW in his noting had stated that, as the objective questions contributed to 50% marks and the numerical questions were to be assessed for 20% marks, prior knowledge of such questions will contribute to a candidates' scoring much higher marks than others without leaving any evidence in their answer scripts. Further, prior knowledge of questions does not necessarily require candidates to sit in close proximity to each other.

(vii) What is more dangerous is the finding of the vigilance that, in a number of answer scripts, extrapolated answers in different shades of ink inserted in cramped space indicates an afterthought and even an access to the answer script after the closure of the exam hours. It is noted here that there was much delay in handing over the answer scripts after the examination by the invigilator/authorized official. It is also significant that the GME, CLW had sat on the vigilance report for five months and released the same with remarks, contrary to extant rules, on the date of his superannuation.

13. The applicants have also cited **Ashok Kumar (supra)** to highlight that the candidates do not have the right to challenge if they are unsuccessful in the selection process. It is observed herein that the applicants in O.A. No. 1135 of 2011 have not challenged their selection process and the criteria therein; they had questioned the implementation of the selection process, particularly, in conduct of written examination and procedural flaws in evaluation thereof. It is on record that it is their complaints which have opened up a can of worms whereby massive irregularities came to be detected by vigilance wing.

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If, upon due and proper consideration of the representation received from candidates who were unsuccessful in the earlier examination, the competent authority concludes that the earlier test suffered from infirmity or that fair opportunity was denied to the candidates, the competent authority is at liberty to issue a fresh order notifying cancellation of the said examination in which event the second test would become the basis for selection process to be finalized in accordance with law.

We find that while cancelling the earlier examination, the respondents have duly recorded the reasons which led them to cancel the earlier test and to declare their intention to start the selection process de novo from the stage of written examination.

14. Hereafter, we would refer to judicial pronouncements on the subject of irregularities in the selection process and consequent appointments.

(a) In **Sadhan Kumar Basu v. Anirudha Mukherjee 1993 (4) SLR 473**, a Division Bench of the Calcutta High Court has held that recommendations of expert bodies cannot be interfered with by Courts unless it was established that power of selection was not exercised bona fide. In the instant matter, the vigilance report has referred to massive irregularities in the selection process as follows:

"8.3. The selection process has suffered from serious irregularities arising from leakage of question paper/model answers, adoption of unfair means by the candidates during the written examination, fraudulent and mala fide activities by some candidates in connivance with the evaluator, lack of uniformity in award of marks, unreasonable/illogical distribution of marks by the evaluator, violation of Board's guideline in award of marks, long delay in declaration of the written test result, missing of the selection file and missing of answer sheets of 07 borderline candidates. Selection, therefore, is not considered credible and the resultant panel lacks sanctity/integrity. The same is recommended to be cancelled. The selection process may be conducted de novo from the stage of written examination with nomination of new members in selection committee."

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It is clear from the above findings that the bonafide of the selection process was called into question.

(b) In **Krishan Yadav vs. State of Haryana (1994) 4 SCC 165**, the Hon'ble Apex Court, after having expressed anguish at systemic fraud in the selection process, set aside the selection of all 96 Taxation Inspectors.

(c) In **All India Railway Recruitment Board v. K. Shyam Kumar, (2010) 6 SCC 614** as relied upon by the respondents, refers to a situation where there was leakage of question papers in advance and in some cases there was unfair means, consequent to which the examination was cancelled. When the cancellation was challenged, the Hon'ble Apex Court had held as follows:

"We heard the Jt Counsel on either side at length and we have also gone through the extract of the vigilance report which appears at para 15 of the judgement of the High Court. The report indicated that 100 to 200 candidates were suspected to have obtained answers for the questions three hours before the examination through some middlemen who had arranged the answers by accepting huge bribe. Apart from the serious allegation of impersonation in respect of 62 candidates, it was stated on scrutiny of the answer sheets, at least six candidates had certainly adopted unfair means to secure qualifying marks in the written test. The report says that investigation prima facie establish leakage of question papers to a sizable number of candidates for the examination held on 23.11.2003. Further, it was also noticed that leakage of question paper was preplanned and widespread and the possibility of involvement of the Railway/RRB staff and also outsiders could not be ruled out and hence recommended that the matter be referred to CBI.

Ultimately the Hon'ble Apex Court had held that

"We therefore find no infirmity in the decision taken by the Board in conducting the second written test for those who have obtained minimum qualifying marks in the first written test rather than going ahead with the first written test which was tainted by large scale irregularities and malpractice. The Board can now take further steps to regularize the result of the second test and the appointment of the selected candidates."

(d) In **B. Raminfini v. State of AP (2002) 5 SCC 533**, another similar matter of mass copying and leakage of question papers came up for adjudication and the Hon'ble Apex Court, after holding that one cannot have an advantage either by copying or by having a foreknowledge of the question paper or otherwise, upheld the cancellation of examination. The

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Hon'ble Court further cautioned that courts should not unduly interfere with the action taken by the Government which is in possession of the necessary information and takes action upon the same and also that the courts ought not to take the action lightly and interfere with the same particularly when there was some material for the government to act in one way or the other.

(e) Further, in **Union of India v. Tarun K. Singh (2003) 11 SCC 768**, the Hon'ble Court held that cancellation of the selection process was perfectly justified where the selection process was vitiated by procedural and other infirmities.

(f) The Tribunal in **O.A. No. 079/650/1999 with O.A. No. 079/624/1999 (C.R. Rathod & ors. v. Union of India & anr.)** in its orders dated 5.1.2009 had observed as follows:

"A complaint was received on 27th May, 1999 addressed to the vigilance officer that there was large scale leakage of question papers and the vigilance officer took immediate steps and after conducting a detailed enquiry came to the conclusion that the leakage was from the press itself. While it is not possible to pin point the extent of the leakage but as the leakage was from the press itself it is probable that it would have been widespread. The General Manager noted that the vigilance report clearly established that the question paper had been leaked out from the press itself and felt that it would be desirable that the previous test is cancelled and a fresh test is organized. The leakage of question paper probably on a large scale has been established and the authorities took the view that the correct course was to cancel the earlier test and to order a fresh test. We reject the contention that there has been no application of mind while taking the decision to cancel the earlier test and to hold the fresh test or that such a decision was arrived at on extraneous consideration. We hold that it was done in bonafide exercise of power and with due application of mind."

(g) In **Bihar Public Service Commission v. State of Bihar 1997 (1) LBESR 400 SC**, it was held that the High Court committed gross error of law in issuing mandamus requiring the Public Service Commission and the State to give appointment to the respondents even after going through a report which in no certain terms indicated the gross illegality and irregularity committed by the Service Selection Board in the matter of holding examination and drawing up the list of successful candidates.

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(h) In *State of Tamil Nadu & anr. v. A. Kalaimani & anr. Civil Appeal Nos. 6190-6201 of 2019* reported in *2019 (3) AISLJ 25* the Hon'ble Apex Court held that if there was serious doubt about the magnitude of malpractice and manipulation, a fresh exam process has to be conducted by the State. The Hon'ble Apex Court had referred to the ratio held in *Gohil Vishwaraj Hanubhai and Ors. v. State of Gujarat and Ors., (2017) 3 SCC 621*, wherein it was held as follows:-

"The authority of the State to take appropriate measures to maintain purity of any examination process is unquestionable. It is too well settled a principle of law in light of the various earlier decisions of this Court that where there are allegations of the occurrence of large scale malpractice in the course of the conduct of any examination process, the State or its instrumentalities are entitled to cancel the examination. This Court on numerous occasions approved the action of the State or its instrumentalities to cancel examinations whenever such action is believed to be necessary on the basis of some reasonable material to indicate that examination process is vitiated. They are also not obliged to seek proof of each and every fact which vitiated the examination process."

#### CONCLUSIONS:

15.1. Having discussed extensively the factual position as well as having referred to the various judicial pronouncements on the subject of an allegedly irregular selection process, we would recall the two issues identified for adjudication in para 4 of this order as follows:-

"(i) whether the selection process held pursuant to notification dated 1.9.2008 is liable to be cancelled on account of alleged irregularities"

(a) Upon having referred to each of the documents brought forth in the pleadings and also during hearing, and, having considered the judicial pronouncements in the context of gross irregularities in selection process, we are of the considered view that the selection process conducted consequent to notification dated 1.9.2008 deserves to be cancelled and, accordingly, finding no cogent reason to intervene in the cancellation memo dated 10.2.2015 of the respondent authorities, we uphold the same.

37 o.a. 1135.2011, o.a. 244.2015, m.a. 47.2015, m.a.  
445.2015, m.a. 893.2017, m.a. 152.15, m.a. 47.15, o.a.  
232.2016, o.a. 1365.2015, o.a. 1432.2015, o.a. 1706.2015

(b) In the same context, we would further state that, on 11.1.2012, this Tribunal, by way of interim relief in O.A. No. 1135 of 2011, had directed that the selection to the post of Apprentice Mechanic will abide by the result in the O.A. O.A. No. 1135 of 2011, having been declared in the present order as infructuous, the respondents are at liberty to cancel the selection process which would no longer be infringed by the pendency of O.A. No. 1135 of 2011.

The respondents are also at liberty to continue their selection process as intended vide their notification dated 10.2.2015. We hope and trust that the respondents will take all possible steps to ensure that no malpractices recur in the de novo selection process.

All the applicants in O.A. No. 1135 of 2011, O.A. No. 244 of 2015 as well as other eligible and intending candidates (who may not be parties to any judicial proceeding) are at liberty to participate in the said process. In case, the applicants in O.A. No. 1135 of 2011, O.A. No. 244 of 2015, added applicants in the O.A.s and other candidates are overaged on account of pendency of these matters, the respondent authorities shall grant them age relaxation, if so required, to enable them to appear in the selection process.

(c) The applicants, against whom there are recommendations to initiate disciplinary proceedings as well as other candidates (who are not applicants to these O.A.s) against whom disciplinary proceedings have been recommended vide the respondent authority's order dated 30.1.2015, shall, however, be debarred from appearing in the selection process unless absolved in the disciplinary proceedings. For such purpose, the disciplinary proceedings shall have to be completed before conduct of the selection process.

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(d) In **O.A. No. 1706/2015 (Alok Kumar Singh v. CLW)**, the applicant had come up in the aforementioned O.A. challenging the entire proceedings including the memorandum of charges dated 25.9.2015 vide which the applicant was alleged to have resorted to various malpractices in the written examination. The respondents are at liberty to complete the disciplinary proceedings against the applicant in O.A. No. 1706 of 2015 in accordance with law. Interim order, if any, stands vacated.

(e) In **O.A. No. 1365 of 2015 (Nagendra Dubey v. CLW)**, the applicant has come up praying for quashing of the memorandum dated 18.8.2015 vide which the respondent authorities intended to proceed against the applicant on grounds of malpractice allegedly adopted by the applicant in the written examination during the selection process. No reply, rejoinder or interim relief is on record. Accordingly, the respondents are granted liberty to complete the disciplinary proceedings against this applicant in accordance with law.

(f) In **O.A. No. 1432 of 2015 (Rajesh Kumar Sharma v. CLW)**, the applicant has challenged the Office Memorandum dated 2.9.2015 vide which the respondent authorities have intended to initiate disciplinary proceedings against the applicant on grounds of alleged malpractice in the written examination in the selection process notified on 1.9.2008. The applicant was also enjoying an interim relief dated 13.2.2015 which granted him status quo. The said interim order stands vacated. The respondent authorities are at liberty to complete the disciplinary proceedings against the applicant in accordance with law.

(g) In **O.A. No. 232 of 2016 (Sanjoy Ganguly v. CLW)**, the applicant has challenged the memorandum dated 9.9.2015 vide which the respondents have intended to initiate disciplinary action against the applicant for his alleged malpractice in the written examination to the

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39 o.a. 1135.2011, o.a. 244.2015, m.a. 47.2015, m.a.  
445.2015, m.a. 893.2017, m.a. 152.15, m.a. 47.15, o.a.  
232.2016, o.a. 1365.2015, o.a. 1432.2015, o.a. 1706.2015

selection process pursuant to notification dated 1.9.2008. No reply and rejoinder or any interim relief is on record. The respondents are at liberty to complete the disciplinary proceedings against the applicant in accordance with law.

(h) The respondents are directed to complete the disciplinary proceedings against each of the applicants mentioned above in O.A.s No. 1706/2015, No. 1365/2015, 1432/2015 and No. 232 of 2016 within a period of six months from the date of receipt of a copy of this order, and if absolved of the charges, the applicants would be eligible for participating in the selection process.

(i) The Original applicants and added applicants in O.A. No. 244 of 2015 had admittedly joined the post of JE (Mechanical) and have continued thereafter on account of interim relief granted vide orders dated 13.2.2015 by this Tribunal. Accordingly, it is directed that the respondent authorities shall not take any coercive action to recover any pecuniary benefits that these applicants would have received by way of functioning as Junior Engineers (Mechanical) in the interregnum. The interim order dated 13.2.2015 stands vacated with the final orders in these O.A.s.

15.2. The second issue as identified for adjudication in para 4(ii) is "whether the applicants in O.A. No. 244/2015 have an indefeasible right to the post of Apprentice Mechanics, Inter Stage (Mechanical)."

In this context, we would refer to the following judicial decisions:-

- (a) In **Director General of Police, MP and another v. Ravi Shankar Viswanath Singh and others** 1988 (1) SLR 201 the Hon'ble Madhya Pradesh High Court at Jabalpur had held that:

"in case of invalid appointments, no such right accrues to the employees and it is open to the appointing authority to cancel such appointments."

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40 o.a. 1135.2011, o.a. 244.2015, m.a. 47.2015, m.a.  
445.2015, m.a. 893.2017, m.a. 152.15, m.a. 47.15, o.a.  
232.2016, o.a. 1365.2015, o.a. 1432.2015, o.a. 1706.2015

The Hon'ble Court further held that in such cases no show cause notice is necessary.

(b) In *Sk. Sahim v. State of W.B. & ors. W.P. No. 10868(W) of 2006*, the Hon'ble High Court at Calcutta ruled as follows:-

"It is known that such illegal appointment for however long a period one may continue in service on the basis of such appointment, does not create any right in favour of the appointee to seek legalization of the appointment. The initial appointment being illegal, it continued to remain illegal all through. Mere length of illegality does not create any sort of right to seek permanent appointment to the post."

In the instant matter, the selection process having been held as vitiated and void ab initio, the appointments of applicants as JE (Mechanical) are rendered invalid. Accordingly, we hold that the applicants do not have any indefeasible right to such post.

15.3 (a) In M.A. No. 445 of 2015 arising out of O.A. No. 244 of 2015, the respondent authorities had prayed for vacation of interim order. All interim orders having been vacated with the passing of this order, this M.A. is disposed of as infructuous.

(b) In M.A. No. 893 of 2017 and M.A. No. 47 of 2015 arising out of O.A. No. 244 of 2015 there was a prayer for addition of parties. This Tribunal, vide its order dated 31.8.2015, had allowed such addition of parties as prayed for in M.A. No. 152 of 2015, M.A. No. 47 of 2015 arising out of O.A. No. 244 of 2015.

With O.A. No. 1135 of 2011 being declared infructuous, M.A. No. 893 of 2017 is disposed of accordingly.

16. Hence, to sum up,

(i) O.A. No. 1135 of 2011 is disposed of as infructuous.

(ii) O.A. No. 244 of 2015 is dismissed on merit with the rider that the respondents will not recover any pecuniary benefits as earned by the original applicants in O.A. no. 244 of 2015 and added applicants as per

41 o.a. 1135.2011, o.a. 244.2015, m.a. 47.2015, m.a.  
445.2015, m.a. 893.2017, m.a. 152.15, m.a. 47.15, o.a.  
232.2016, o.a. 1365.2015, o.a. 1432.2015, o.a. 1706.2015

M.A. no. 47 of 2015 and M.A. no. 152 of 2015 in case they have actually rendered service as Junior Engineers (Mechanical) in the interregnum and also that these applicants will be given the benefit of age relaxation if any so required, in the de novo selection process.

(iii) O.A. No. 232 of 2016, O.A. No. 1432 of 2015, O.A. No. 1706 of 2015 and O.A. No. 1365 of 2015 are all disposed of with liberty to the respondent authorities to conclude the disciplinary proceedings within a period of six months from the date of receipt of a copy of this order, to be completed before conduct of the selection process, with the corollary that those absolved from the charges will be entitled to appear at the selection process.

(iv) The M.A.s stand disposed of as directed above. The parties will bear their respective costs.

Registry will take steps to return the documents taken in safe custody to the respondent authorities.

(Nandita Chatterjee)  
Administrative Member

(Bidisha Banerjee)  
Judicial Member

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