

CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH AT RANCHI

C.C.P.A no. 21/2018
(Arising out of O.A. NO. 050/00582/2013)

CORAM
HON'BLE SHRI JAYESH V. BHAIRAVIA, MEMBER (JUDICIAL)
HON'BLE SHRI DINESH SHARMA, MEMBER (ADMINISTRATIVE)

DATE OF ORDER 04.12.2019

1. Md. Yaqub Ansari Son of Md. Khalil Ansari, Safaiwala, under Senior Section Engineer (C&W), East Central Railway, Rajendra Nagar Coaching Complex, Patna (Bihar).
2. Jawahar Lal Yadav, Son of Late Krishna Yadav, Khalasi under Senior Section Engineer (C&W), East Central Railway, Rajendra Nagar Coaching Complex, Patna (Bihar).
3. Shiv Kumar Son of late Medni Kumar Rai, Khalasi, under Senior Section Engineer (C&W), East Central Railway, Rajendra Nagar Coaching Complex, Patna (Bihar).

.....Applicants

By Advocate : Shri M.P. Dixit

Versus

1. Sri Lalit Chandra Trivedi, The General Manager, East Central Railway, Hajipur, PO-Dighi Kalan, District- Vaishali-844101 (Bihar).
2. Sri Ranjan Kumar Jha, the Divisional Railway Manager, East Central Railway, Danapur Post Khagaul, District- Patna (Bihar)-801105.
3. Sri Awadhesh Kumar, The Senior Divisional Personnel Officer, East Central Railway, Danapur Post –Khagaul, District-Patna (Bihar)-801105.
4. Sri A.K. Chandan, The Senior Divisional Mechanical Engineer (C&W), East Central Railway, Danapur Post-Khagaul, District- Patna (Bihar)-801105.

.....Respondents/Contemnors.

By Advocate : Shri Bindhyachal Rai

ORDER (ORAL)

Jayesh V. Bhairavia, Member (Judl.) :- The present Contempt Petition has been filed by the original applicants and contended that the directions issued by this Tribunal vide order dated 2nd June 2017 in O.A. 582/2013 (Annexure A/1 refers). The applicants have contended that, the applicants have sent a copy of aforesaid order for ensuring compliance of the order (Annexure C/1). However, the respondents have not complied with the order. It is also contended that the applicants have come to know that the alleged contemnors have filed a Writ

Petition i.e CWJC No. 15010/2017. The said writ petition was dismissed on 14.11.2017. (Annexure C/2 refers). Thereafter, the applicants submitted a representation dated 27.11.2017 for ensuring compliance of order dated 02.06.2017 passed by this Tribunal. The l/c for applicant further submitted that the respondents have not complied with the directions issued by this Tribunal and willfully and deliberately flouted the order passed by this Tribunal. Therefore, the applicants pray for initiating contempt proceedings against the alleged respondents/contemnors.

2. Considering the aforesaid pleadings it is noticed that, this Tribunal vide order dated 22nd March 2018 issued notices to the respondents/contemnors which was sent by this Registry on 12.04.2018.

3. On receipt of notice, initially, the respondents have filed their first reply to show cause notice on 31st July 2018 and thereafter a supplementary reply has been filed by the respondents on 07.01.2019 wherein it has been stated that a SLP(Civil) Diary No. 19270/2018 against the order of Hon'ble High Court of Judicature at Patna. However, the said SLP was dismissed by the Hon'ble Apex Court on 13.07.2018 (Annexure –B refers). On dismissal of said SLP, this matter was sent to the General Manager (P)/ECR, Hajpur for further guidelines.

4. The General Manager (P)/ECR issued a guidelines to the Division vide letter dated 06.08.2018 wherein it was instructed to implement the order dated 02.06.2017 passed in OA 582/2013 with stipulation that the same implementation shall be subject to outcome of the main SLP No. 30621/2011, 31288/2017 and other similar cases pending before the Hon'ble Supreme Court. Accordingly, penal was redrawn and one Mr. Md. Yaqub Ansari was placed at Sl.No.70 whereas Shri Shiv Kumar and Sri Jawahar Lal yadav were placed at Sr. No. 71 & 72 respectively. All three applicants were empanelled for the post of Technician Grade-III in Pay band Rs.5200-20200/- Grade Pay Rs.1900/- (As per 6th Central Pay Commission) and sent for the six months training vide letter dated 31.08.2018. It has been further stated that the order passed by this Tribunal has been complied with However, l/c for respondents crave leave of this Tribunal to file a detailed supplementary reply to show.

5. The l/c for applicants raised objection to the said submission of the respondents and submitted that the directions issued by this Tribunal has not been fully complied with

6. This Tribunal vide order dated 28th February 2019 had taken note that the respondents have not redrawn the panel as it was explicitly directed in the order of O.A.. Therefore, there is no compliance of the order issued by this Tribunal. The respondents were again directed to re-draw the penal and make available a copy of the same to this Tribunal on the next date of hearing.

7. The respondents have filed their additional supplementary show cause on 02.08.2019 wherein it has been noticed that the competent authority has redrawn a penal as per direction of this Tribunal and issued order vide letter no. CS/Selection/Tech.-III/25% Inter Appr/12 dated 18.07.2019 (Annexure A refers). The l/c for respondents submitted that the order passed by this Tribunal has been fully complied with.

8. The l/c for applicants filed rejoinder dated 20.09.2019 and contended that the show cause reply is misleading and cannot be considered as a total compliance of the order passed by this tribunal. It is further contended that the applicants had filed the present O.A for their empanelment and promotion to the post of Technician Grade-III under 25% Intermediate Apprentice quota with effect from the date other 68 persons of the panel dated 26.08.2013 got promoted (Annexure P/1). It is further contended that the O.A was allowed on 02.06.2017 with the direction to the respondents to redraw the panel against 73 posts instead of 68 against total 79 notified posts. It is further submitted that instead of complying the said order, the respondents filed a Writ Petition against the order of this Tribunal. However, the same was dismissed. Then the respondents preferred an SLP before the Hon'ble Apex Court, which was also dismissed. It is further submitted that the respondents have issued a list of 72 persons on 18.07.2019 (Annexure –A) wherein the name of 86 persons of Annexure P/1 have been shown and the name of applicants have been shown at sl.no.71 to 73.

9. It is further contended by the applicant that the officials at Annexure P/1 have been promoted to the next post of Technician Grade –II and I vide order dated 22.03.2016 and 01.06.2018 whereas the applicants are still in Grade-III which is serious contempt. The applicants have been included in the penal alongwith penal dated 26.06.2013 as they are fully entitled to get the benefit from the said dates. The l/c for applicant submits that the alleged contemnors have deliberately flouted the order of this Tribunal.

10. Heard the parties and examined the materials on record. It is noticed that this Tribunal, vide order dated 2nd June 2017 passed in OA 582/2013 has observed in para 7 & 8 as under :-

“7. Instead of going into the intricacies of not promoting the candidates who have passed the written examination, we feel it expedient to direct the respondents to give promotion to all the 73 persons who had qualified in the written examination as total promotional posts were 79, Hence ordered.(Emphasis added).

8. The OA is allowed. The respondents are directed to give promotion to all the 73 candidates who had passed in the written examination forthwith including the applicant as the advertisement was for 79 posts and only 73 persons have qualified. The respondents are directed to redraw a panel of selected candidates as per their departmental guidelines and norms. No costs.”

11. We have also perused the show cause reply dated 02.08.2019 filed by the respondents wherein it is noted that pursuant to the order passed by this Tribunal dated 02.06.2017 in OA 582/2013, the respondents vide their letter dated 18.07.2019 redrawn the panel of Tech Grade-III/25% inter App. Mech (C&W) in Pay band 5200-202000 + Gr.Pay 1900/- wherein 72 persons name have been incorporated. The 63 employees whose name were placed in panel dated 26.08.2013 had been granted promotion vide order dated 22.03.2016 and 01.06.2018.

12. It is noticed that this Tribunal vide order dated 26.02.2017 directed the respondents to give promotion to all the 73 candidates who had passed in the written examination forthwith including the applicants as the advertisement was for 79 posts and only 73 candidates were declared qualified in the written test. The respondents were directed to redraw a panel of selected candidates as per guidelines and norms. The said advertisement/notification dated 20.07.2011 was related to promotion from Group D to Group C post against 73 post of Technician Grade-III under 25% inter App. Quota and the written examination was held on 06.04.2013, result was published on 22.04.2013. The direction was issued by this Tribunal in respect of the said notification. During the course of hearing, The Tribunal specifically asked both the counsels for the parties whether all 73 candidates who had qualified in the written examination had been granted

promotion. This was replied in the affirmative by the counsel for the respondents. The counsel for applicants was initially reluctant to give a straight answer to this query, later on conceded.

As noticed hereinabove, once the respondents has granted promotion to the applicants from Group 'D' to Group 'C' post (in grade –III) and redrawn their panel vide order dated 18.07.2019 in compliance of the order passed by this Tribunal, we are satisfied that the respondents have complied with the directions issued by this Tribunal. Applicants are at liberty to take appropriate legal recourses, if they are still aggrieved by the promotion order issued by the respondents by following issued by this Tribunal. Hence the CP is dropped. Notices are discharged.

(Dinesh Sharma)
Member (Admn.)

(Jayesh V. Bhairavia)
Member (Judl.)

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